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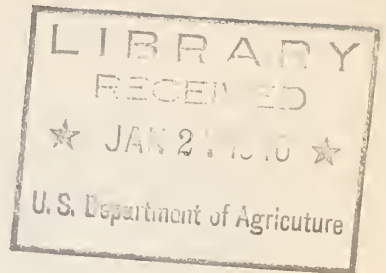
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UNITED STATES DEPARTMENT OF AGRICULTURE  
BUREAU OF AGRICULTURAL ECONOMICS  
Land Economics Division

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Bulletin 51  
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SUMMARY OF OUTSTANDING LAWS AFFECTING RURAL  
LAND USE ENACTED DURING 1939

(Primarily for the Information of Bureau  
of Agricultural Economics Personnel, Soil  
Conservation Service and Forest Service)

Compiled by  
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Washington, D. C.  
January 1940.



## FOREWORD

This issue of the Bulletin presents a brief digest of outstanding legislation affecting rural land use enacted by (a) the First Session of the 76th Congress and (b) the Regular and Special Sessions of State Legislatures meeting in 1939. It continues the series of summaries begun by Mr. H. A. Heckley in 1937, which first appeared as a publication of the Land Policy Section, Division of Land Utilization, Resettlement Administration, and later as a publication of the Farm Security Administration and of the Bureau of Agricultural Economics successively. Bulletins 29 and 40 of the series represent a compendium of the enacted legislation for the legislative biennium of 1937-1938. Bulletin 51 is intended to be much the same sort of compilation for the 1939 legislative year.

Both FEDERAL LEGISLATION and STATE LEGISLATION are arranged according to subject matter. An index of State legislation by States is provided at the end; and where a particular item of State legislation is not found under its subject-matter heading, it may sometimes be found under another subject-matter heading if the State Index is consulted.

Both session law chapter (or page) numbers and legislative bill numbers are given for State laws when the information was available.

No reference has been made to housing legislation, either urban or rural. The Central Housing Committee has issued an "Annual Summary of State and Federal Laws Relating to Public and Private Housing." It is published as the September, 1939, supplement to the Housing Legal Digest (1601 Eye Street, N. W., Washington, D. C.).



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1939 STATE LEGISLATIVE SESSIONS

REGULAR SESSIONS

|                | <u>Convened</u> | <u>Adjourned</u>                    |
|----------------|-----------------|-------------------------------------|
| Alabama        | January 10      | Recessed Sept. 15-<br>June 25, 1940 |
| Arizona        | January 9       | March 13                            |
| Arkansas       | January 2       | March 9                             |
| California     | January 2       | June 20                             |
| Colorado       | January 4       | April 28                            |
| Connecticut    | January 4       | June 7                              |
| Delaware       | January 3       | August 29                           |
| Florida        | April 4         | June 2                              |
| Georgia        | January 9       | March 18                            |
| Idaho          | January 2       | March 2                             |
| Illinois       | January 4       | June 30                             |
| Indiana        | January 5       | March 6                             |
| Iowa           | January 9       | April 28                            |
| Kansas         | January 10      | April 3                             |
| Maine          | January 4       | April 21                            |
| Maryland       | January 4       | April 4                             |
| Massachusetts  | January 4       | August 12                           |
| Michigan       | January 4       | June 30                             |
| Minnesota      | January 3       | April 19                            |
| Missouri       | January 4       | June 24                             |
| Montana        | January 2       | March 2                             |
| Nebraska       | January 3       | June 7                              |
| Nevada         | January 16      | March 16                            |
| New Hampshire  | January 4       | June 16                             |
| New Jersey     | January 10      | November 13                         |
| New Mexico     | January 10      | March 11                            |
| New York       | January 4       | May 20                              |
| North Carolina | January 4       | April 4                             |
| North Dakota   | January 3       | March 8                             |
| Ohio           | January 2       | June 14                             |
| Oklahoma       | January 3       | April 29                            |
| Oregon         | January 9       | March 15                            |
| Pennsylvania   | January 3       | May 29                              |
| Rhode Island   | January 3       | May 29                              |
| South Carolina | January 10      | July 1                              |
| South Dakota   | January 3       | March 3                             |
| Tennessee      | January 2       | March 11                            |
| Texas          | January 10      | June 21                             |
| Utah           | January 9       | March 11                            |
| Vermont        | January 4       | April 14                            |
| Washington     | January 9       | March 10                            |
| West Virginia  | January 11      | March 11                            |
| Wisconsin      | January 11      | October 6                           |
| Wyoming        | January 10      | February 18                         |

1939 State Legislative Sessions continued:

| <u>SPECIAL SESSIONS :</u> | <u>Convened</u> | <u>Adjourned</u> |
|---------------------------|-----------------|------------------|
| Alabama                   | March 15        | March 31         |
| Arkansas                  | July 14         | August 3         |
| Colorado                  | April 28        | May 12           |
| New York                  | June 23         | July 10          |
| Rhode Island              | July 14         | July 14          |

FEDERAL  
LEGISLATION

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AGRICULTURE

Eradication of Pink Bollworm

Public No. 351 (H.R. 4638, Mr. Kleberg), approved August 9. The Secretary of Agriculture is directed, with the assistance of the State Department, to discuss with the Mexican Government and with various State governments plans for the eradication and control of pink bollworm affecting cotton; and to report to the President not later than January 10, 1940.

Federal Seed Law

Public No. 354 (H.R. 5625, Mr. Coffee), approved August 9. Agricultural and vegetable seeds, to be transported in interstate commerce, must bear labels giving (1) the name of the seed, (2) the origin, (3) the percentage and kinds of noxious weed seeds, and (4) the name and address of the person transporting the seed or delivering it for transportation in interstate commerce. Germination tests must also have been made within a 5-month period immediately prior to transportation. A complete record of the origin, germination, and purity of each lot of agricultural seed must be kept by persons engaging in interstate transportation thereof, and is to be made available to the Secretary of Agriculture or his agents for inspection at any time within 3 years.

Some exceptions from the usual label requirements are authorized in the case of farmer producers selling direct to consumers; of shippers of seed or grain not intended for seeding purposes; and of seed sold in bulk. Common carriers are not held responsible for the labeling, unless they engage in merchandising seed.

It is prohibited to import into the United States, (1) any seed containing more than 10 per cent of agricultural or vegetable seeds which are adulterated or unfit for seeding purposes, (2) screenings of certain kinds of seeds, and (3) alfalfa or red clover seed which has not been properly stained. Certain exceptions are authorized in the case of seeds imported for other than seeding purposes.

The Secretary of Agriculture has authority to make rules and regulations for the enforcement of the Act. Provision is also made for cease and desist procedures, for criminal penalties, and for the seizure and disposal of illegally transported seed. The Importation of Adulterated Seeds Act of 1912 (U.S.C., 11-116, inclusive) is repealed.

(Agriculture cont.)

### Surplus Agricultural Commodities

Public No. 387 (S. 2697, Mr. Byrnes), approved August 11. The Commodity Credit Corporation is authorized, pursuant to appropriate treaties, to exchange surplus agricultural commodities for strategic and critical defense materials produced abroad. Authority is granted to the Corporation to utilize the services of other agencies, to handle the acquired materials, and to transfer them to other government agencies.

Public Resolution No. 52 (H.J.R. 375, Mr. Jones), approved August 11. The Commodity Credit Corporation is authorized, with the approval of the President, to sell surplus agricultural products to foreign governments on condition that they be held as defense materials for a period of 5 years. No concession below the prevailing world market price for unrestricted use of the commodities is allowable. Cotton sales are limited to 500,000 bales.

### Agricultural Marketing Act Loans

Public No. 150 (H.R. 2179, Mr. Jones), approved June 22. The interest rates set forth in certain notes and obligations taken by the Federal Farm Board and the Farm Credit Administration for loans made from the revolving fund provided by section 6 of the Agricultural Marketing Act (46 Stat. 11) are ratified and confirmed, and the refund of interest collected in excess of those rates is authorized.

## AGRICULTURAL ADJUSTMENT

### Reapportionment of Cotton Acreage Allotments

Public No. 6 (S. 680, Mr. Lee), approved March 13. Makes permanent the provision permitting cotton allotments not used by original allottees to be reallocated by county committees to other farms within the same state. The county committee "shall consider only the character and adaptability of the soil and other physical facilities affecting the production of cotton and the need of operator for an additional allotment to meet the requirement of the families engaging in the production of cotton on the farm. . ." This is an amendment to Subsection (h) of section 344 of the Agricultural Adjustment Act of 1938.

(Agr. Adjust. cont.)

### Advances for Crop Insurance

Public No. 9 (S. 1098, Mr. Wheeler), approved March 24. Producers participating in the Soil Conservation and Domestic Allotment program may have the premiums for insuring their crops with the Federal Crop Insurance Corporation advanced to the Corporation by the Secretary of Agriculture. Advances will then be deducted from any payments due the producers under provisions of the Soil Conservation and Domestic Allotment Act. This is an amendment to Section 12 of that Act.

### Cotton Pool Participation Trust Certificates

Public No. 27 (H.R. 3801, Mr. Johnson), approved April 5. The \$1,800,000 appropriation for retiring cotton pool participation trust certificates is made available for an additional period ending December 31, 1939. Authority of the cotton pool manager to purchase the certificates is extended to September 30, 1939.

### Acreage Allotments

Public No. 30 (S. 1363, Mr. Pankhead), approved April 10. Repeals that section of the Agricultural Adjustment Act of 1938 (Sec. 101(c) (4)) which grants an additional 25 per cent acreage allotment to farms upon which the planted acreage is less than 80 per cent of the farm acreage allotment.

### Cotton Acreage Allotments

Public No. 149 (S. 1569, Mr. Hatch), approved June 22. Makes permanent the provisions of Section 334 of the Agricultural Adjustment Act of 1938, which relate (1) to the minimum county allotments of acreage, (2) to the 4 per cent allotment to farms, and (3) to the requirement that the farm acreage allotment for any farm be not less than 50 per cent of the acreage planted to cotton, plus 50 per cent of the acreage diverted from cotton production in 1937.

### Amendments Relating to Tobacco

Public No. 335 (H.R. 6538, Mr. Chapman), approved August 7. Subsection (b) of section 312 is amended so that the marketing quota for burley, fire cured and dark-air cured tobacco provided for in that subsection will not be effective "for any marketing

(Agr. Adjust. cont.)

year for which a marketing quota was proclaimed pursuant to the provisions of subsection (a) of this section." This would have the effect of eliminating a second referendum on marketing quotas for those types of tobaccos.

Public No. 336 (H.R. 6539, Mr. Cooley), approved August 7. Subsection (a) of Section 312 is amended so as to permit the Secretary of Agriculture to proclaim the marketing quota for tobacco at any time during the calendar year, instead of between November 15th and December 1st as before. The Secretary may also increase the national marketing quota by 10 per cent if an increase is needed to meet marketing conditions.

Public No. 337 (H.R. 6540, Mr. Cooley), approved August 7. Section 313 is amended by the addition of subsection (g), which authorizes marketing quotas to be established on the basis of farm acreage allotments (in place of the pre-existing pound quota system). A uniform increase in allotments calculated for small farms is provided for and reductions of allotments by an amount equivalent to any amount of tobacco marketed in violation of the law in the preceding year are required.

Public No. 338 (H.R. 6541, Mr. Cooley), approved August 7. Section 314 is amended to provide for a penalty of 10¢ per pound on flue-cured, Maryland, or burley tobacco and 5¢ per pound on all other kinds of tobacco marketed in excess of the marketing quota.

#### National Allotment of Cotton

Public Resolution No. 32 (H.J.Res. 247, Mr. Jones), approved July 26. Section 343 (b) of the Agricultural Adjustment Act of 1938, is amended so as to fix the national allotment of cotton for any year (after 1939) at not less than 10,000,000 bales.

#### National Wheat Allotment

Public Resolution No. 33 (H.J.Res. 248, Mr. Jones), approved July 26. Section 333 of the Agricultural Adjustment Act of 1938 is amended so as to fix the national allotment of wheat at not less than 55,000,000 acres for any one year.

#### Wheat Marketing Quotas

Public Resolution No. 35 (H.J.Res. 343, Mr. Jones), approved July 26. Section 335(c) of the Agricultural Adjustment Act of 1938, is amended so that the farm wheat marketing quota shall be equal to

(Agr. adjust. cont.)

the actual production or the normal production, whichever is greater, of the farm acreage allotment, plus penalty-free carry-over from any previous crop. Farmers are not to be penalized so long as they do not market wheat in excess of the farm marketing quota.

#### Corn Marketing Quota

Public Resolution No. 34 (H.J.Res. 342, Mr. Jones), approved July 26. Section 322 of the Agricultural Adjustment Act of 1938 is amended so that (1) the marketing percentage for corn marketing quotas may be proclaimed at any time prior to September 15th; (2) the outcome of the corn marketing quota referendum may be proclaimed at any time prior to October 10th; and (3) the marketing percentage is 100 per cent.

### CIVILIAN CONSERVATION CORPS

#### Continuation of the Civilian Conservation Corps

Public No. 326 (H.R. 2990, Mrs. Norton), approved August 7. The Civilian Conservation Corps is continued to July 1, 1943, and the designation of an appropriate official seal is authorized.

### FORESTRY

#### Additions to National Forests in Montana

Public No. 199 (S. 26, Mr. Wheeler), approved July 20. The President is authorized to add to existing national forests, or to include within new national forests, any unappropriated public lands situated in Montana which he feels to be chiefly valuable for the production of timber or the protection of watersheds.

#### Additions of Land to the Kaniksu National Forest

Public No. 374 (H.R. 2752, Mr. Leavy), approved August 10. More than 450,000 acres within the approximate boundaries of the northeast Washington land-utilization project are placed within the Kaniksu National Forest.

(Forestry cont.)

### Additions of Land to the Wenatchee National Forest

Public No. 394 (H.R. 5747, Mr. Leavy), approved August 11. Some 20,000 acres of land are authorized to be added to the Wenatchee National Forest in Washington if they "are found by the Secretary of Agriculture to be chiefly valuable for national-forest purposes."

### GRAZING

### Advisory Boards in Taylor Grazing Districts

Public No. 173 (S. 2237, Mr. McCarran), approved July 14. The Taylor Grazing Act is amended by the addition of Section 18, requiring the formation of an advisory board of local stockmen in each grazing district, plus one member to represent the Secretary of the Interior. The local representatives are appointed by the Secretary, only upon the recommendation of the users of the range in each district as determined by means of an election conducted under the rules and regulations prescribed by him. The Board is required to meet at least once annually. Its function is to give advice on the issuing of grazing permits, the establishment and modification of district boundaries and other matters relating to the administration of the Taylor Grazing Act. Except in cases of emergency, the Secretary of the Interior requests the advice of the Board in advance of the promulgation of any rules and regulations affecting the district.

### IRRIGATION AND RECLAMATION

### Extension of Time for Payments on Reclamation Projects

Public No. 97 (H.R. 5076, Mr. White), approved May 31. The Secretary of the Interior is authorized and directed to determine whether any of the water users' organizations or any of the water users on United States and Indian reclamation projects are unable, without great hardship or undue burden, to pay construction charges owing to the United States. Such extensions of time as the Secretary deems to be just and equitable are authorized in connection with amounts payable for the years 1938 and 1939.

### Reclamation Project Act of 1939

Public No. 260 (H.R. 6984, Mr. White), approved August 4. The Secretary of the Interior is authorized to amend contracts for the

(Irriga. and Reclam. cont.)

repayment of construction charges on reclamation projects so that the remaining unaccrued charges are spread in definite annual installments over a longer period. In making these extensions the 40-year repayment period is retained, except for projects on the crop repayment plan.

Upon the request of duly authorized representatives of the water users on any existing project, the Secretary may negotiate a contract for repayment of construction charges, providing for annual variations in payments according to the year to year variation of crop returns. There is to be an annual census of gross crop returns per acre and a determination of normal returns for each year.

In connection with the adjustment of the terms of the various project repayment plans, the Secretary is authorized to call for the classification or reclassification of lands within a given project period. He may also take certain precautionary measures to insure the ultimate protection of the investment of the Federal Government. New projects can be created only upon adequate factual justification.

#### Development of Farm Units on Reclamation Projects

Public No. 307 (S. 2410, Mr. Wheeler), approved August 7. The Secretary of the Interior, in agreement with the Secretary of Agriculture, is authorized to consider the money made available by the Farm Security Administration to settlers or prospective settlers (on public lands under Federal reclamation projects) as all or a portion of the capital required of them under sub-section 4(c) of the Act of December 5, 1924 (43 Stat. 702); and, where the land has been or may be improved by funds so made available, to require the entryman to give his mortgage to repay the value of such improvements before an entry is allowed.

#### PUBLIC FINANCE

#### Federal Aid to States for Free Bridges

Public No. 195 (S. 1109, Mr. Miller), approved July 19. The Act of August 14, 1937, providing for reimbursement to States on account of free toll bridges, is amended to permit reimbursements to be made both from regular Federal-aid road funds and from secondary Federal-aid road funds. The provisions of the Act are also extended until July 1, 1941.

The Federal Aid Highway Act of 1938 also is amended, so as to permit  $1\frac{1}{2}$  per cent of the annual apportionment to any State to be used for surveys, plans, engineering, and economic investigations without State matching of Federal funds.

## PUBLIC LANDS

### Coes Bay Wagon Road Grant Lands

Public No. 85 (S. 242, Mr. McNary), approved May 25. Provision is made for the payment of 75 per cent of the receipts derived in any one year from the Coes Bay Wagon Road grant lands in Oregon to the treasurers of Coes and Douglas Counties, "in lieu of taxes." The amount will be divided between the two counties according to the ratio that the total assessed valuation of the grant lands in each bears to the total assessed valuation in both. The lands are to be appraised within 6 months after passage of this Act and not less than once every 10 years thereafter, by an appraisal committee composed of a representative of the Secretary of the Interior, a representative of the 2 counties, and a mutually agreeable third person who shall not be a government employee or a resident or property owner in either county. When the appraisal is complete, the "payments in lieu of taxes" are to be computed and assessed at the same levy rates as apply to privately owned lands within the respective counties.

In the event that 75 per cent of the receipts derived from the grant lands for a given year are insufficient to meet the payments as above computed and assessed, an additional sum from any surplus that might remain from receipts of prior years, can be applied. The aggregate of payments during any 10-year period cannot exceed 75 per cent of the receipts deposited in the Treasury to the credit of the Coes Bay Wagon Road grant fund for that period. At the end of each 10-year period any balance not required for the making of payments is to be covered into the general fund of the Treasury of the United States. Not to exceed 25 per cent of the annual receipts are to be available to be appropriated for administrative expenses.

### Exchange of Revested Grant Lands

Public No. 249 (H.R. 6503, Mr. Mott), approved July 31. The Secretary of the Interior is authorized to exchange revested lands of "approximately equal aggregate value held in private, State, or county ownership, either within or contiguous to the former limits of such grants."

## WATER

### Rio Grande Compact

Public No. 96 (H.R. 4997, Mr. Thomason), approved May 31. To give the consent and approval of Congress to the Rio Grande Compact

(water cont.)

signed at Santa Fe, New Mexico, on March 18, 1938. This compact was formulated to remove all causes of present and future controversy among the States of Colorado, New Mexico, and Texas with respect to the use of the waters of the Rio Grande above Ft. Quitman, Texas, and for the purpose of effecting an equitable apportionment of such waters. 1/

Flood Control Appropriation Made to War Department

Public No. 154 (H.R. 6260, Mr. Snyder), approved June 28. The War Department appropriation act for the 1940 fiscal year provides that \$3,000,000 shall be transferred and made available to the Secretary of Agriculture for preliminary examinations and surveys of run-off and water-flow retardation and soil-erosion prevention in the watersheds of flood-control projects.

Water Conservation and Utilization Projects

Public No. 398 (S. 1802, Mr. Wheeler), approved August 11. The Secretary of the Interior is authorized to construct water conservation and utilization projects in the Great Plains and arid and semi-arid areas of the United States. All projects must be shown to be feasible from financial and engineering standpoints; and money expended on construction is to be repaid by the water users over a period of 40 years.

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1/ For State action see p. 24.

STATE  
LEGISLATION

AGRICULTURE

Agricultural Cooperatives

Arkansas - Act No. 153, Associations (H. B. 260). Five or more persons engaged in the production of agricultural commodities may form a cooperative association to engage in any activity connected with the production, marketing, sale, harvesting, processing or transporting of agricultural or forest products. The association may also arrange medical and hospitalization services for the benefit of its members and their families. Except for debts lawfully contracted between him and the association, no member is liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee.

The by-laws or marketing contract of the association may fix, as liquidated damages, specific sums to be paid by members or stockholders upon the breach or threatened breach of any provision of the participation agreement; and in case of a breach or threatened breach, the association may obtain an injunction to stop it.

No association organized under this law is to be deemed a combination in restraint of trade.

Georgia - Act No. 254, p. 350, Marketing Associations. The powers of cooperative associations organized under the Cooperative Marketing Act of August 15, 1921, are increased: (1) by allowing them to join with other associations or individuals engaged in the production of agricultural products; (2) by allowing them to engage in activities connected with the furnishing of farm business services; and (3) by permitting the handling of agricultural products belonging to non-members, provided that the value of such business is not greater in any one fiscal year than the value of business done for members.

North Dakota - Ch. 4, State Assistance (H. B. 105). Provides for the creation of a division of cooperatives within the Department of Agriculture and Labor, its purpose being to aid cooperatives by serving as a source of useful information.

Tennessee - Ch. 94, Sheep Protection (S. B. 856). Sheep raisers are authorized to form non-profit, non-stock cooperative associations to provide insurance for loss of sheep caused by dogs. Members losing sheep as a result of canine depredations would be indemnified by the association out of the revenues derived from assessments.

### Agricultural Promotion

Connecticut - Development Commission (S.B. 181). Creates a commission of 11 members appointed by the Governor, representing various business and economic interests in the State, to study conditions affecting industry, commerce, agriculture and the development of recreational facilities. The commission is supposed to cooperate with various promotional and research groups, both public and private.

Florida - County Financial Support (S. B. 172). Pinellas County is authorized to levy a special tax not to exceed 5 mills, to be used in the promotion of agriculture.

Ohio - Development and Publicity Commission (S.B. 98). Creates a gubernatorial commission to collect and disseminate information concerning the agricultural, historical, industrial and recreational advantages and attractions of the State.

### Freight Rate Resolutions

The following States memorialized Congress concerning alleged inequalities in freight rates:

Arkansas - Act No. 107 (S.B. 160)

Indiana - Ch. 171 (S.C.R. 4)

Minnesota - Ch. 4 (H.R. 289)

Oklahoma - H.C.R. 10

West Virginia - H.Res. 25

2/

### New England Hurricane Emergency

Maine - Ch. 12, Log Storage. Authorizes the use of State-owned ponds and lakes for the storage and booming of logs salvaged by the Northeastern Timber Salvage Administration.

Massachusetts - Ch. 99, Timber Salvage. The Commissioner of Conservation and 4 other persons appointed by the Governor are constituted a Timber Salvage Commission for the purpose of advising with timber owners; lending assistance in arranging for the storage and economical disposition of salvaged timber; cooperation with local, State and Federal agencies in the salvaging process; and seeking the best methods of eliminating fire hazards.

Massachusetts - Ch. 180, Fire Protection. Authorizes the Department of Conservation to make investigations of existing hazards; after notice to landowners and occupiers in the damaged

(New Eng. Hurricane Emerg. cont.)

area, to enter the land and remove such debris as will eliminate the imminent danger of fire, taking every precaution to avoid damage to the property; and to invoke the power of eminent domain when necessary.

Massachusetts - Ch. 247, Fire Protection. Authorizes the State Forester to appoint additional temporary fire patrol officers to patrol forests in areas within any county where there is special danger of forest fires. Expenses of this additional patrol are to be paid in the first instance by the Commonwealth, but one-half the amount spent in each county is required eventually to be contributed by the local taxpayers.

New Hampshire - Chs. 1 and 200, Logging Trucks. Grants concessions on licenses for out of State trucks to be used in timber salvaging.

Vermont - Temp. No. 230, Tax Exemption. Exempts from taxation (a) timber blown down in the hurricane, and (b) lumber manufactured from salvaged timber.

#### Pest and Weed Control

California - Ch. 89, Citrus Pest Control Districts (A. B. 507). By filing a petition with the County Board of Supervisors, the owners of 51 per cent of the land area devoted exclusively to citrus culture, may initiate the organization of a citrus pest control district. At a hearing by the County Board the County Agricultural Commissioner is required to report on the expediency of establishing the District; and any owner of citrus acreage may also submit a written protest. If the finding of the Board favors establishing the District, it may so order, at the same time setting the district boundaries. When organized, a district may engage in the business of eradicating, removing or preventing the spread of any and all citrus pests. This work is to be financed by special tax levies pursuant to an annual budget which has been adopted after each landowner has had an opportunity to be heard.

Idaho - Ch. 235, State Commission (H. B. 251). Creates a State Noxious Weed Commission of three members appointed by the Governor and serving at his pleasure. Its duties are to: (1) cooperate with counties and the Federal Government in promoting and extending noxious weed control work; (2) distribute Federal and State aids to counties; (3) make estimates of funds necessary for weed control on public lands; (4) purchase necessary equipment through the State Purchasing Agent; and (5) solicit cooperation and assistance from the State Extension Service and the Experiment Station.

(Pest & Weed Control cont.)

Montana - Ch. 195, Districts (S.B. 201). Laws relating to weed control are revised so as to permit the organization of weed control and weed-seed extermination districts. Upon presentation of a petition signed by 25 per cent of the freeholders within the proposed district the County Commissioners hold a hearing. The petition will not be granted unless 51 per cent of the landowners give written consent. If a district is to be established, the County Commissioners appoint a Board of Weed Control and Weed-seed Extermination Supervisors consisting of three members. These supervisors are empowered to make inspections of land within the district and to order the destruction of noxious weeds. If the landowner complies with the order, he may present the County Commissioners with a duly verified claim for one-third the cost. If he does not comply, the Supervisors may perform the work, one-third of the cost of which will be charged to the County and the remaining two-thirds assessed against the land. The County's portion of the expense is to be paid out of a "noxious weed fund" obtained either out of the County General Fund or by levying a special tax not exceeding one mill.

New York - Ch. 86, Blister Rust. Authorizes the Board of Supervisors of any county to raise money for suppressing and controlling white pine blister rust, under the direction and supervision of the State Department of Conservation.

#### Rural Electrification Cooperatives

The following States enacted laws which authorize the formation of Rural Electrification Cooperatives:

Florida - Ch. 19138  
Missouri - Page 298  
Montana - Ch. 172  
New Mexico - Ch. 192  
Oklahoma - Ch. 46  
South Carolina - Act 351

#### Miscellaneous

Arkansas - Act No. 312, Instruction in Conservation of Natural Resources (H.B. 33). The teaching of courses in the conservation of natural resources is required in the State's high schools and institutions of higher learning. The State Commissioner of Education is directed to see to the carrying out of the Act, and also to prepare text books and other suitable materials to facilitate instruction on the subject.

Oklahoma - Ch. 26, Art. 5, State Fertilizer Plant (H. B. 395). This Act authorizes the Board of Affairs to establish and operate at the sub-prison, a plant for making fertilizer of crushed limestone

(Misc. Agr. cont.)

and lime; and provides a marketing and sales system. It is expected that the Board will conduct experiments with raw crushed limestone as a fertilizer and disseminate its findings by publication and by holding farmer meetings in each county.

Pennsylvania - Act No. 129, Agricultural Adjustment. Reveals the "Pennsylvania Agricultural Conservation and Adjustment Act" (1937 P.L. 2688), which assented to and accepted the provisions of the Federal "Soil Conservation and Domestic Allotment Act" and provided for Pennsylvania's participation therein.

## GOVERNMENT ORGANIZATION

### County Government

Colorado - S. J. R. No. 11, County Consolidation Discouraged. (Memorial). Declaring that smaller counties are being forced to surrender their identity and accept against their will, annexation to adjoining counties, the Legislature goes on record opposing any ". . . consolidation which does not arise from the expressed wish of the people of the counties affected."

Illinois - Page 646, Creation of Wildlife Districts (H. . 602). Any contiguous territory lying wholly within one county, and containing at least 1280 acres under no less than 4 separate ownerships, may be recognized as a wildlife district upon the filing of a petition signed by a majority of the landowners representing at least three-fourths of the land included; and its favorable reception by the electorate within the proposed district.

The governing body of the district has authority to make all necessary rules and regulations for the proper management of the area, including the appointment of an adequate police force. In general their actions will be concentrated upon: (1) the control of pests, (2) the propagation of beneficial birds and animals, and (3) the regulation of hunting, killing and trapping.

Adjacent lands may be annexed upon petition of the owners thereof. Likewise, any district may be dissolved and discontinued by petition and election.

Nebraska - Ch. 25, Optional Forms of County Government (L.F. 30). Proposes a constitutional amendment to be submitted to the voters in November 1940. The amendment would give the Legislature the power to permit the voters of each county to choose between optional forms of county government, as provided by statute.

Nevada - Res. 3, Abolition of Counties (A.J.R. 17). It is proposed to amend the State constitution by adding a section which would

(County Govt. cont.)

prohibit the Legislature from abolishing a county without first having the approval of a majority of the county's electorate. The method of initiating and conducting the election would be left to the Legislature.

North Dakota - Ch. 112, Constitutional Amendments Affecting County Government (S.C.R. 135). Proposes amendments to the State constitution, to be submitted to the voters at the next general election.

The Legislature would be empowered to provide for optional forms of county government, at least one of which must be the county manager form. These optional forms would be in addition to the township and the County Commissioner forms now permitted. In setting up an optional form, the Legislature would be required to specify the number, functions and manner of selection of county officers; but no optional form would become operative in any county until approved by 55 per cent of those voting thereon at a special or general election. The question would be submitted at the instance either of two-thirds of the county legislative body, or of 15 per cent of the voters in the county.

The population required as precedent to the formation of a new county would be raised from its present figure of 1000 to 5000. The Legislature would be given authority to provide by general law for the consolidation and dissolution of counties; but actual reorganization would require approval of 55 per cent of those voting on the question in a given county. Still another section of the proposed amendments would consolidate the offices of county judge and clerk of the district court, in counties having less than 15,000 population; and in counties having a population of 6000 or less, the county judge would in addition serve as a register of deeds.

North Dakota - Ch. 121, County Consolidation Law Amended (S.B. 50). Thirty per cent instead of 20 per cent of the legal voters, as determined by the votes cast for the office of Governor at the last general election, must sign any petition requesting county consolidation, although the requirement that the signers be freeholders is waived. When the proposed consolidation applies to only a portion of the county, a consenting petition must also be filed by 30 per cent of the legal voters in the remaining portion.

Section 13 of the law which deals with county liability for the indebtedness of other counties, has now been clarified so that neither a petitioning county nor an adjoining county becomes liable for debts of the other, contracted prior to the consolidation.

North Dakota - Ch. 122, Disorganization of Counties (S. B. 240). Counties having a population of less than 4000 inhabitants

(County Govt. cont.)

are allowed to disorganize themselves and to become attached to an adjoining county for judicial and other purposes. Two procedures are provided for accomplishing this end. The first is initiated by the filing of a petition signed by 20 per cent of the electors in a county. Notice that such petition has been filed must then be sent by registered mail to the State examiner, who proceeds within 30 days to make a complete audit of the county's finances. When the examiner's report has been filed in the county auditor's office and thus made available to the public, the question may be submitted to the voters at the next State-wide election. A majority of the legal votes cast is necessary to carry the question.

If the petition for disorganization be signed by more than 50 per cent of the qualified electors of the county, then the second method of disorganization must be used. This requires no election; but the petition is filed with the district court, and a judicial proceeding following the usual rules for publication of notice, hearing, and finding of the court determines the question. Any aggrieved elector, taxpayer or creditor of a county, may make an appeal from the decision of the court within 20 days.

If the proposition be approved the Governor is required without delay to issue a proclamation announcing the result of the election or the finding of the court and stating that on and after the following January 1, the county is to be an unorganized county. Between December 15 and December 31 following the proclamation, the Governor is required to designate an adjoining organized county to which an unorganized county should be attached. If, however, the County Commissioners of the petitioning county prior to December 15 designate the organized county to which they wish their county to become attached, and if the designated county by resolution agrees to the attachment, the Governor must make a selection accordingly.

Detailed provision is made for the transfer of authority from the officials of the county to be disorganized, to those of the organized county, and for the abolition of all county offices in a county at the time it becomes a disorganized county. The adjoining organized county is authorized to levy sufficient taxes within the unorganized county to pay the latter's debts and to pay the cost of the necessary public services. It is in no way to become financially obligated or burdened by reason of the attachment.

Tennessee - Ch. 224, County Consolidation (H.B. 1381). The Governor, the Attorney-General, the Commissioner of Taxation, the Commissioner of Highways, the Commissioner of Education, the Commissioner of Conservation, and the Executive Director and Secretary of the State Planning Board, are constituted a State Consolidation Committee having the general function of assisting counties in the preparation of consolidation plans. Upon receipt of a petition signed by 25 per cent of the qualified voters of any county, requesting that parts or all of it be allowed to consolidate with one or more adjoining counties, the State Committee creates a county consolidation committee composed of the County Judge or Chairman, and the County Trustee of

(County Govt. cont.)

the petitioning county, the County Judge or Chairman of the adjoining county, and 5 signers of the petition, to be designated by the Governor. The State and County Committees acting jointly consider the request for consolidation and hold hearings thereon within the petitioning county. Within 90 days of the receipt of the petition, a report of their findings and recommendations must be made and published. A report, published in newspapers circulating in affected counties, must be made within 90 days. If the report be favorable to consolidation an election is to be called to ascertain whether a two-thirds majority of all the qualified voters in the petitioning county are in favor of the plan. If the necessary majority is obtained, the petitioning county is to be abolished and dissolved and its territory transferred in accordance with the consolidation plan. The effective date of the abolition of any county is to be September 1, 1942, or quadrennially thereafter.

The indebtedness of the petitioning county becomes an obligation of and against the absorbing county or counties; and the title to all the property, real, personal, or mixed, likewise passes to the absorbing county. In order partly to equalize and reduce the outstanding indebtedness of the petitioning and absorbing counties, an amount equal to 8 mills on the dollar may be levied annually against property within the petitioning county for remittance to the absorbing county, on a pro rata basis for a period of 5 years from the effective date of the consolidation.

Tennessee - Ch. 225, County Debt Reorganization (H. B. 1382). The Quarterly County Court of the absorbing county (refer to Ch. 224 above) is authorized to prepare a plan of debt reorganization including the bonded and floating indebtedness of both absorbing and absorbed counties. The plan must be prepared within 90 days after consolidation has taken place, and is subject to the review of the State Consolidation Committee.

Tennessee - Ch. 226, Grants to Counties for Consolidation Purposes (H.B. 1383). The State Funding Board is authorized to issue a total of \$1,000,000 worth of bonds at one time or from time to time, as may be requested by the State Consolidation Commission. Funds derived from the sale of these bonds may be used for the making of grants to both absorbed and absorbing counties, not to exceed \$50,000 each to aid in carrying out the consolidation plan (see Ch. 224 above). In computing the amount of money for each grant, the following ratio is to be used: "The amount of money to be granted for the portion of the absorbed county is to \$50,000 as the amount of the assessed valuation being absorbed is to the total taxable valuation of the whole county." It is the duty of the State Consolidation Commission to see that sufficient monies are redeemed monthly by the State out of the county's 2-cent share of the gas tax, so as to permit the State to be reim-

(County Govt. cont.)

bursed for the principal amount of the grant over a period of 20 years.

### Districting Laws

Irrigation Districts - See WATER UTILIZATION

Soil Conservation Districts - See LAND USE REGULATION AND DEVELOPMENT

Weed and Pest Control Districts - See AGRICULTURE

### State Government

Alabama - Governor's No. 162, Department of Conservation (H.B. 52). A number of State Bureaus are consolidated into a Department of Conservation, headed by a Director appointed by the Governor. Its functions and duties include: (1) Conservation of wildlife; (2) conservation and promotion of forest resources and industries; (3) supervision over State forests, parks, monuments and historical sights; (4) supervision and control over State lands not specifically committed to some other department; (5) cooperation with Federal departments and officials; (6) conduct of programs of education in conservation; (7) recommending legislation needed to promote conservation of natural resources.

An advisory Board of Conservation is also created, consisting of the Governor, the Commissioner of Agriculture and Industry, the Director of Agricultural Extension, and 8 other gubernatorial appointees. Among other things, this Board is charged with helping to formulate the policy of the Department. By a two-thirds vote it may repeal or add to any rule promulgated by the Department.

California - Ch. 93, Public Resources Code (A.P. 1875). Laws relating to natural resources are revised and consolidated into a public resources code. Besides codifying the statutes, it outlines the functions of a State Department of Natural Resources organized into 4 divisions; Forestry, Parks, Fish and Game, and Mines.

Idaho - Ch. 27, Powers of the Water Conservation Board Transferred (S.B. 15). The Department of Reclamation is made the successor to the State Conservation Board.

Montana - Ch. 123, State Board of Forestry (H.B. 127). A virtually complete revision of the forest fire protection laws is contained in this Act. Most significant changes include a reorganization of the State Board of Forestry and a redefinition of the responsibility of landowners for the maintenance of forest fire protection.

(State Govt. cont.)

The new State Board of Forestry is composed of 7 members, appointed by the Governor as follows: one member of the State Water Conservation Board, the Dean of the Montana School of Forestry, and one member each recommended by the Blackfoot Forest Protective Association, the Northern Montana Forestry Association, the Montana Stockgrowers and Montana Wool Growers Associations, and the U.S. Forest Service. Powers of the new Board include: (a) the classification of forest land areas for which conservation and fire protection measures are required, (b) the creation of fire districts in any organized forest protection district upon recommendation of the protection agency, (c) protection of forest lands by its own organization under contract or authorization, (d) the making and enforcement of rules and regulations concerning forest protection (not to conflict with the powers of the State Board of Land Commissioners), (e) cooperation with Federal Government, (f) the supplying of technical and practical advice to farmers concerning forest conservation and the establishment of woodlots, and (g) cooperation with and assistance to the State Board of Land Commissioners in the protection and economic development of State Forests.

Owners of land classified by the Board as forest lands are required to furnish adequate fire protection as prescribed by the Board. In the event that the protection is not supplied by the owner, it may be supplied by the Board at a cost of between one and five cents per acre per year, chargeable against the owner and enforceable by a lien against the land.

North Carolina - Ch. 255, Agricultural Coordinating Committee (S.B. 328). Creates a 13-member Coordinating Committee consisting of representative officials from the University of North Carolina, the State College of Agriculture and Engineering, and the State Department of Agriculture. It is the function of the Committee to avoid overlapping activities between the three institutions, and to facilitate cooperation. The Commissioner of Agriculture and the President of the University are bound by its findings and recommendations.

Tennessee - Ch. 217, Conservation Commission (H.B. 1242). A Conservation Commission consisting of the Governor and 4 citizens selected by him, with special reference to their training and experience in conservation matters, is created to serve as a policy-forming body and to make rules and regulations necessary for the protection of fish and game.

Townships, Schools and Highways

Arkansas - Act No. 379, Creation of County Highway Commission (S.B. 442). The old form of local road district organiza-

(Townships, etc., cont.)

tion is replaced by a county unit system. During the years 1939 and 1940, township road overseers are to be designated as foremen for road work under the supervision of the county judge. In each county a Highway Commission is created to supervise and manage all roads not included in the State Highway System. The Commission is composed of the county Judge and two other members appointed by him with the consent of the county board. It is a body politic and corporate, having the same "governmental" status as a county in all tort actions.

Arkansas - Act No. 387, Boundary Lines of School Districts (H. B. 193, Sub. for H. B. 61). County courts are given power to change the boundary lines between school districts upon the written consent (1) of the Board of Directors of each district affected, and (2) of a majority of the electors in any territory seeking annexation to another district.

Idaho - Ch. 16, Creation of State Highway System (H. B. 11). All highways now or hereafter established in the State are declared to constitute a State-wide highway system. While the several county highway districts, good road districts, cities and villages are to continue to construct and maintain highways within their respective limits, they do so as agents of the State.

A special fund is set up out of money accruing to the State highway fund from motor fuel taxes, 20 per cent of which is to be distributed among the several counties in proportion to their respective shares of the proceeds from automobile licenses during the preceding year. In any case, at least \$1,000,000 must be thus distributed.

Indiana - Ch. 150, Creation of Townships (H. 412). Additional limitations are placed upon the power of Boards of County Commissioners to divide counties into townships or to change the number, names and boundaries of existing townships. In the first place, no existing township may be abolished or its boundaries altered except upon authority of a petition presented to the Commissioners by a majority of the freeholders within the boundary lines of the territory affected. Secondly, the creation of new townships or the reduction in size of old townships must be so carried out as to leave at least 24 square miles within the new township; and thirdly, minimum existing valuation for a new township is fixed at \$200,000.

Oregon - Ch. 468, Reorganization of School Districts (H.F. 321). In each county not subject to Chapter VIII, title 25, Oregon Code 1935 Supplement (the County Unit School District Law), a County Reorganization Committee is created. The Committee is to organize within 30 days of the effective date of the Act, and begin an examination of existing school district boundaries. With the aid of standards fixed by the State Board of Education acting as a State

(Townships, etc., cont.)

Commission for school district reorganization, it is to make a comprehensive school district plan to be completed not later than September 1, 1940. The State Commission has power to call elections upon the question of reorganizing districts in accordance with the plan.

Pennsylvania - Act No. 275, School District Mergers. Further amends the School Code (1911 P. L. 309), by establishing a uniform procedure for school district mergers. The steps in the procedure are: (1) formulation of a plan by the County Board and participating local Boards of School Directors; (2) submission of this plan to the State Council of Education for approval; (3) filing of a petition in the county court of common pleas, requesting a referendum in each affected district; (4) holding the referendum; (5) certification of the results to the Department of Public Instruction, the County Prothonotary and the county and local Boards of School Directors.

All officers in the units to be merged serve until the end of their respective terms, and all property, assets, liabilities and so forth, of each district are preserved in the merged district. If only a part of a district is merged, the distribution of assets and liabilities is determined by written agreement between the interested Boards of School Directors prior to the referendum.

South Dakota - Ch. 111, Abolition of Highway Board in Unorganized Counties (S.B. 155). Highway Boards are abolished in those unorganized counties where less than  $12\frac{1}{2}$  per cent by area of all real property remains on the assessment list, or where the assessed valuation does not exceed \$500,000. All money left to the credit of the county's road fund, or received from the collection of back taxes, is to be used for liquidating outstanding road warrants. Any surplus to be used for construction and maintenance on the State and Federal road system within the unorganized county.

It is the duty of the auditor of each county to which an unorganized county is attached, beginning on the first day of July, 1939 and annually thereafter, to ascertain whether or not this law is there applicable.

Texas - County-Wide School Districts (S.B. 44). Counties having (a) between 35,000 and 67,500 inhabitants and (b) a property valuation of \$75,000,000, are automatically converted into county-wide equalization units for the maintenance of a county unit system of education. The general management and supervision of the public schools is to be vested in a County Board of School Trustees. Upon the approval of the electorate, an equalization tax of not to exceed  $2\frac{1}{2}$  mills may be levied, the proceeds to be distributed to the common and independent school districts of the county upon the same basis as the State per

(Townships, etc., cont.)

capita apportionment.

Utah - Ch. 82, Study of Public School System (H.B. 276). Creates a fact finding body consisting of 15 members, to be appointed by the Governor. Its purpose is to study and report upon: (1) scholastic and vocational objectives of all branches of the public school system, (2) the objects for which money allotted to the various branches is used, (3) the degree to which existing educational objectives are adapted to the needs and welfare of the State, (4) the ability of the State to maintain the system now established, (5) desirable changes, if any, and (6) means of stabilizing support to all units in the system.

\$25,000 is appropriated by the Act for the expenses of the study.

## GOVERNMENTAL COOPERATION

### Federal Aid

Nevada - Ch. 148, Acceptance of Federal Aid by Counties (S.B. 134). A permanent procedure is established for acceptance by counties of Federal grants-in-aid for public improvements. Should the contribution required of the county be limited to (a) the use of county-owned equipment, (b) the services of regularly appointed county operators, or (c) additional expenditure of not more than \$1000, only a resolution of the county Commissioners is required. If any other kind of participation is contemplated, the declaration of intent of the County Commissioners must be published; and the voters of the county have 30 days in which to file a protest. Protest by 10 per cent is sufficient to require submission of the question to a vote of the county electorate.

### Federal Aid to Education

Action has been pending in the past several sessions of Congress on proposals to provide Federal grants in aid to the States for the advancement of education. Several ideas have been embodied in the proposals for distributing the grants, but the objective of the most important ones has been to equalize educational opportunities throughout the country without substituting Federal supervision for that of the States. (See H.B. 3517, 76th Congress.)

The following States enacted laws authorizing the acceptance of any Federal aid to education that might be forthcoming or passed resolutions urging Congress to take favorable action on pending bills.

(Fed. Aid to Educa. cont.)

Arkansas - Act No. 164 (S.B. 330)  
Georgia - Res. No. 22 (p. 1446)  
Minnesota - Ch. 206 (H.B. 962)  
New Mexico - Ch. 228 (H.B. 52)  
North Dakota - S.U.R. No. 25  
Tennessee - Ch. 172  
Utah - Ch. 83  
Vermont - Temp. No. 217  
Wyoming - Ch. 95

### Interstate Compacts

Colorado River Compact. It has been proposed that the States of Arizona, California and Nevada enter into an agreement for the purpose of establishing the relative importance of different beneficial uses of the water, removing causes of controversies and securing the expeditious agricultural and industrial development of the Lower Basin. The proposal has been ratified by Arizona (Ch. 33 - S.B. 56).

Delaware River Basin. The States of New York, New Jersey, Pennsylvania and Delaware have drawn up an interstate compact for the purpose of controlling pollution in the waters of the Delaware River Basin. The compact divides the basin into four zones and sets up minimum standards of sewage and waste treatment within each of the zones. Administration of the compact is to be delegated to an interstate commission.

The compact was ratified in 1939 by two of the States:

New Jersey - Ch. 146 (S.B. 101)  
New York - Ch. 600 (A.B. 1938)

Ohio River Valley Water Sanitation Compact. A compact has been negotiated by representatives of Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Tennessee and West Virginia, for the purpose of controlling stream pollution in the Ohio River Valley. The signatory States pledge themselves to cooperate fully in controlling pollution; and they agree to enact whatever legislation may be necessary to promote sanitary, safe and satisfactory public and industrial uses of the water supply.

The compact creates the Ohio River Valley Water Sanitation Commission, as an instrumentality of the several States and of the United States, to administer regulatory measures under the agreement.

Ratified in 1939 by the following States:

Illinois - Page 310 (H.B. 891)  
Indiana - Ch. 35 (H.B. 337)  
New York - Ch. 776  
Ohio - S.B. 33  
West Virginia - H.B. 369

(Interstate Comp. cont.)

Rio Grande Compact. The "Rio Grande Compact," was signed in 1938 by representatives of Colorado, New Mexico and Texas, with the object of removing all causes of present and future controversies among them, with respect to use of the waters of the Rio Grande River above Fort Quitman, Texas. The compact provides for the maintenance and operation of stream gauging stations at specific points, and fixes the amount of water which the States of Colorado and New Mexico are required to deliver into the channel of the river at their respective State lines. Provision is also made for the settlement and arbitration of other problems which may arise out of the use of these interstate waters.

Ratified by all three States:

Colorado - Ch. 146 (S.B. 83)

New Mexico - Ch. 33 (S.B. 55)

Texas - H.B. 152

South Dakota-Minnesota Boundary Waters. The South Dakota-Minnesota Boundary Waters Commission consists of the following members: The director of the South Dakota Game and Fish Commission, the Minnesota Commissioner of Conservation and an engineer mutually agreeable to the Governors of the two States. Its powers are: (1) to determine the most desirable and beneficial levels of boundary waters, (2) to make necessary orders, (3) to hold hearings either after complaint or on its own initiative, and (4) to prescribe and promulgate rules and procedure for the conduct of its investigations and hearings.

Both States enacted appropriate legislation for making the Commission a legal working organization:

Minnesota - Ch. 60 (H.B. 286)

South Dakota - Ch. 294 (H.B. 213)

South Platte. Negotiations have been started to appoint a joint Colorado-Nebraska Commission to deal with problems of utilizing and disposing of the waters of the South Platte River. The Governor of Nebraska has been authorized to appoint a Commissioner to represent the State. (Ch. 53, L.B. 192)

### Local Governments

Georgia - Act No. 276, Functional Cooperation Between Cities and Counties. Fulton County is authorized to contract with the city of Atlanta for the performance of administrative, protective or other governmental functions and services.

Nevada - Ch. 57, Local Government Cooperation (H.B. 238). A county containing a city fire district may make agreements whereby the city fire department would assist in protecting property from fire within designated rural areas, upon agreed terms of compensation.

(Interstate Comp. cont.)

Tennessee - Ch. 222, Cooperation Between Counties and Municipalities (H. B. 1378). The quarterly County court and the chief legislative body of any municipality lying within the boundaries of a county may enter into agreements for the joint performance of desirable and necessary public services.

Tennessee - Ch. 223, Functional Consolidation of Counties (H.B. 1380). The Quarterly County Courts of any two or more contiguous counties are authorized to enter into agreements for the joint performance and financing of any service functions rendered by or through county government.

### Cession and Consent Laws

Nevada - Ch. 148, Acceptance of Lands from the United States (S.B. 133). The Governor of the State is authorized and directed to accept on its behalf, any conveyance by the Federal Government, of public lands for park and recreational purposes.

South Dakota - Ch. 237, Transfer of Custer State Park to the National Government. (S.B. 314). The Governor is empowered to negotiate for transferring to the Federal Government, all State lands embraced within the boundaries of Custer State Park, except school or endowment lands. The State reserves for twenty years, the right to rental and income from certain lodge and hotel properties within the park. The Federal Government is obligated perpetually to (1) keep the park open to the people without admission charges; (2) assume all the State's contractual obligations to purchase land within it, in force at the time of the conveyance; and (3) maintain all roads and trails as they are at the time of the transfer.

In case the transfer is made, the Board of School and Public Lands is authorized to arrange exchanges of school and endowment lands within the park for unalienated Federal land of equal value outside.

Vermont - Temp. No. 251, Legislative Memorial. Arguing that "the failure of the United States to show its sincerity by entering into a written agreement with the State of Vermont places the internal sovereignty of the State of Vermont over its lands and natural resources, and its people in double jeopardy, because the Flood Control Act of 1938 . . . repealing the sacred words 'with the consent of the State,' and substituting therefor the arbitrary words 'notwithstanding any restrictions or limitations or prior consent by any other act. . .,' gives the Secretary of War power to openly flaunt and to ignore the internal sovereignty of a sovereign State in the acquisition of lands, easements, and rights-of-way necessary for any dam and reservoir project or channel improvement or rectification project for

(Interstate Comp. cont.)

flood control purposes. . . ; 'the National Congress is' . . . respectfully requested to uphold the sacred faith and tradition of the American people by repealing forthwith such enactments."

Federal Acquisition - The following States enacted laws consenting to Federal acquisition of land to be used for flood control, navigation, development, soil conservation, power generation, and other purposes, but reserving the right to serve civil and criminal process thereon:

Arkansas - Act No. 327 (H.R. 646).

Maine - Act No. 248.

Massachusetts - Ch. 284. Limited application.

New Hampshire - Ch. 149. Limited application.

### Wildlife Restoration

The Pittman-Robertson "Federal Aid in Wildlife Restoration Act," Public Law 415, 75th Congress, provided for allocation of Federal receipts from taxes on firearms, shells, and cartridges, to the States (One-half in proportion to the State's area and one-half in proportion to the number of license holders in the State) to aid them in wildlife restoration projects (including research and the selection, acquisition, restoration, rehabilitation and improvement of suitable and adaptable areas of land and water.)

As a condition for the apportionment of money under this Act, States must assent to its provisions and must enact legislation prohibiting the diversion of hunting license fees to any other purpose than wildlife conservation.

A total of 43 States have passed acceptance Acts and become eligible to the Federal benefits. Action was taken in 1939 by the following States (in each case the agency delegated to administer the law on the State level is indicated):

Alabama - Gov.'s. No. 514 (H.R. 364), Dept. of Conservation.

Arizona - Ch. 51 (H.B. 119), Game & Fish Commission.

California - Ch. 296 (S.B. 391), Div. of Fish & Game.

Colorado - Ch. 106 (S.B. 475), Game & Fish Commission.

Idaho - Ch. 145 (H.B. 281), State Fish & Game Commission.

Illinois - Page 651 (S.B. 28), Dept. of Conservation.

Indiana - Ch. 101 (H. 136), Dept. of Conservation.

Iowa - Ch. 75 (S.F. 448), State Conservation Commission.

Maine - Ch. 231, Dept. of Inland Fisheries & Game.

Michigan - Pub. Act 281 (S.B. 308), Conservation Commission.

Minnesota - Res. 11 (S.F. 442), Game & Fish Department.

Nebraska - Ch. 41 (L.B. 133), Game, Forestation & Parks Com.

New Hampshire - Ch. 168, Fish & Game Dept.

New Mexico - Ch. 19 (H.B. 35), State Game Commission.

North Carolina - Ch. 271, Dept. of Conservation & Development.

North Dakota - Ch. 146 (H.B. 65), State Game & Fish Dept.

(Wildlife Restora. cont.)

Oregon - Ch. 173 (S.R. 9), State Game & Fish Comm'n.  
South Dakota - Ch. 100 (H.B. 215), Game & Fish Dept.  
Tennessee - Ch. 163 (H.B. 1332), Conservation Dept.  
Texas - S.B. 215, Game, Fish & Oyster Commission.  
Vermont - Temp. No. 83, Fish & Game Surveys.  
Washington - Ch. 140 (H.B. 231), State Dept. of Game.  
West Virginia - Ch. 64 (S.B. 204), Sec. 11, Dir. of Cons.  
Wyoming - Ch. 58 (S.F. 47), Game & Fish Commission.

Arizona (H.C.R. 3) and Kansas (Ch. 361) memorialized Congress to appropriate all the revenue received from the Federal tax on firearms for wildlife restoration projects, (instead of 92 per cent as now provided by the Pittman-Robertson Act).

### Miscellaneous

Mississippi Parkway. The following States enacted legislation in 1939 for the purpose of cooperating with the Federal Government in the proposed development of a Mississippi Parkway:

Arkansas \* Act No. 45 (H.B. 342).  
Illinois - Page 1150 (H.B. 607); see also H.J.R. 26.  
Minnesota - Res. 21 (S.F. 1273).  
Missouri - Page 667 (H.B. 529).  
Wisconsin - Ch. 138 (A.B. 514). Would apply to any national parkway.

Washington - Ch. 68, Farm Forestry (H.B. 289). The Division of Forestry and the State College are authorized to receive funds from the Federal Government, to be used in the cooperative development of windbreaks, shelter belts and woodlots on farms in accordance with the cooperative Federal Farm Forestry Act of May 18, 1937.

## GRAZING

### Stock Laws

Alabama - Governor's No. 368, Local Option Stock Law (H.B. 125). Livestock owners permitting their stock to run "uncontrolled" off their own land after March 1, 1940, will be held civilly liable for any damage done to crops, trees, shrubs or flowers. Court judgments against a livestock owner constitute a lien on the marauding animal superior to all other liens.

(Grazing cont.)

State and county law enforcement officers are authorized to take up any stock that is found running at large. Personal notice is to be served on the owner within 24 hours, and a fee of \$1.00 charged for taking up the animal, in addition to any claims resulting from damage done or feed consumed. Stock may also be taken up by the owner or tenant of land upon which it is trespassing.

Counties may exercise an option to allow cattle (not other kinds of livestock) to have free range, if the proposition is supported by a majority of the votes cast at a special election called by the probate judge in response to a petition filed by 25 per cent of the qualified electors. Such counties are to be known as "Open Range Counties," in contradistinction to "Stock Law Counties."

In "Stock Law Counties," the liability of the owner of raiding livestock does not extend to damages resulting from collisions with motor vehicles; and in "Open Range Counties" owners cannot collect damages for injury to their stock by motor vehicles.

Montana - Ch. 63, Stock Lanes (S.B. 150). A stock lane is deemed to be a public highway established and maintained for the driving and travel of livestock. Determination of the width of the lane is left to the County Commissioners but may not be less than 60 feet. The general laws of the State relating to powers of County Commissioners to establish, alter and vacate public highways, including the right of eminent domain, apply to stock lanes as well as to highways.

Texas - H.B. 883, Cattle Guards. The Commissioners' Court of Chambers County is authorized to construct and maintain cattle guards along first, second and third class roads.

### Districts

Montana - Ch. 208, Grass Conservation Act (H.B. 217). This Act constitutes a complete revision of the State grazing laws. The most significant changes involve (1) abolishing the State Grazing Commission and substituting the Montana Grass Conservation Commission, and (2) increasing the power of grazing associations over lands lying within district boundaries. No one may now graze livestock within a district without a permit from the association, unless he grazes upon land owned or controlled by him and restrains his stock from trespassing on lands controlled by the Association. This provision allows the Association to regulate grazing of unfenced lands and those that have been abandoned by their owners.

(Grazing cont.)

### Federal Agencies

Nevada - Ch. 67, Cooperation of State, County, and Federal Agencies in Relation to Grazing Lands (A.P. 135). Money paid by the Federal Government as the State's portion of grazing fees, and returns from grazing leases in Taylor grazing districts, is placed in a special fund designated as the Nevada Taylor Grazing Act Range Improvement Fund. This in turn is distributed to the various counties in proportion to the acreage of grazing district land within their respective boundaries.

In order to provide an instrumentality for better cooperation between State, County and Federal agencies having to do with Taylor Grazing Districts, a State Grazing Board is established in each district. The members and chairman of each of the State Boards are the same persons who constitute the Board of District Affairs, except that membership is limited to residents of the State. The function of these Boards is to direct and guide the disposition of the Range Improvement Fund for each district; to supervise construction and maintenance of improvements; to authorize payments of legitimate administrative costs; and to take charge of the refunding of grazing fees during periods of severe drought or general epidemics of disease.

Any project involving the construction and maintenance of range improvements can be undertaken only under cooperative agreements between either the State Boards or the County Commissioners, and Federal officers in charge of the grazing district concerned.

New Mexico - Ch. 125, Taylor Grazing Funds (H.B. 122). Funds received by the State as its share of money collected by the Federal Government in each Taylor Grazing District, are to be distributed to the several counties --- distribution to be made in an amount proportionate to the extent of districted lands in each county. Money received by the county is to be placed in the "Farm and Range Improvement Fund" and is to be used for soil and water conservation, control of rodents and predatory animals, extermination of noxious weeds, and construction of secondary roads. Expenditures from the fund must bear the approval of the President of the College of Agriculture; and County Commissioners shall in all cases seek the advice and cooperation of State and Federal agencies in determining the way in which the money is spent.

Washington - S.J.M. 1, Grazing National Forests. Congress is memorialized to permit the grazing of approximately 40,000 acres of land in Stevenson County, now under the jurisdiction of Biological Survey. It is contended that this area has always been considered fine natural range; that there is no danger of over-grazing under the supervision of the Forest Department, and that the grazing of cattle in no way injures or depletes the feed for game, since cattle eat a different kind.

## LAND TENURE

### Farm Mortgages

California - Ch. 515, Substitution of Homestead Property (A.B. 1254). If proceeds accruing from the sale of property selected as a homestead are used for the purchase of other property within 6 months, the newly purchased property may be designated as a homestead with the same legal effect as though the original homestead had not been sold.

California - Ch. 929, Farm Debt Adjustment Commission (S.B. 1136). Under the general supervision of the California Farm Debt Adjustment Commission, groups of 20 or more farmers may form voluntary associations for the purpose of having their indebtedness refinanced by financial institutions on the Commission's approved list. While a loan advanced by the lending institution constitutes a direct obligation of the individual farmer to whom it is made, each member of the Association nevertheless assumes liability for any deficiency of his brother members.

Loans may be approved as follows: (a) not to exceed 90 per cent of the appraised value of the farm for the refinancing of debts contracted prior to January 1, 1937; (b) not to exceed 75 per cent for debts contracted subsequent to January 1, 1937; and (c) not to exceed 75 per cent for the purchase of a farm subsequent to January 1, 1939. The loan contract must provide for amortization within 70 years or some shorter period.

Bonds issued by a lending institution on the security of loans made under this Act must be approved by the Commission, and therewith become legal investments for fiduciary institutions and are tax exempt to the same extent as State bonds.

Iowa - Ch. 212, Notice to Mortgagees (S.F. 133). Notice of the expiration of the right of redemption must now be served by registered mail (instead of by mere publication), on locally non-resident mortgagees or their assignees of record, if their address is disclosed by the recorded instrument or by a certificate filed with the recorder. In case of an old-age assistance lien, it will suffice to make the service upon the superintendent of the State Division of Old-Age Assistance.

Iowa - Ch. 245, Mortgage Foreclosure Continuances (S.F. 489). Embodying into permanent form the spirit of the original mortgage moratorium law (Ch. 525, Code 1935), this Act allows owners of lands foreclosed for defaults necessitated

(Land Tenure cont.)

by natural catastrophies or by economic depression duly proclaimed by the Governor, to apply for a continuance of the foreclosure proceedings. If the court find the statements in the application to be true, the foreclosure proceedings may be postponed up to 2 years, depending upon the date of its commencement, (the purpose being to assure relief during one whole crop cycle). Under extraordinary circumstances, the court may allow a second continuance of not over one year.

The court order making the continuance must provide for the appointment of a receiver to take charge of the property and to rent it, preferably to the owner or party in possession. Rents collected by the receiver are to be distributed in the following order of priority: (1) costs of the receivership, (2) taxes, (3) insurance, (4) the holder of the instrument upon which the foreclosure is based.

Massachusetts - Ch. 32, Homestead Exemptions. The homestead exemption statute is liberalized by increasing the exempted valuation from \$800 to \$4000.

### Deficiency Judgments

The following States enacted legislation giving relief from deficiency judgments:

California - Ch. 586 (S.B. 334). Deficiency judgments on property mortgages are abolished, except in the case of bonds issued by permission of the Commissioner of Corporations, or subject to the Public Utilities Act.

New York - Ch. 607. Benefits of 1938 Law extended to July 1, 1940.

### Moratoria

The following States extended their mortgage moratoria laws or added new ones:

Arizona - Ch. 34 (S.B. 141). 1937 Law extended 2 years beyond March 4, 1939.

California - Ch. 86 (A.B. 360). Extends postponement of foreclosure sales and redemption periods to July 1, 1941.

California - Ch. 609 (S.B. 543). Declares a moratorium on the foreclosure of State school lands until June 30, 1941.

California - A.J.R. 14. The President and Congress are memorialized to provide a moratorium upon repayment of the principal of Federal farm loans.

Michigan - Act No. 316. Previous law continues effective until March 1, 1940.

(Land Tenure cont.)

Michigan - Act No. 318. Land Contract Moratorium extended from November 1, 1938 to March 1, 1940, but only when a "homestead" is involved.

Minnesota - Ch. 7 (S.F. 53). Extends moratorium to March 1, 1941.

Montana - Ch. 124 (S. Sub. for H.B. 115). Benefits extended to March 1, 1941.

New York - Ch. 606. Benefits extended to July 1, 1940.

North Dakota - Ch. 165 (S.B. 40). Extended to July 1, 1941.

Ohio - H.B. 50. 1937 Law extended to April 1, 1941.

Wisconsin - Ch. 28 (S.B. 30). Previous moratorium extended to April 1, 1941.

Wisconsin - Ch. 70 (A. J. R. 117). Federal lending agencies urged to submit voluntarily to provisions of the State Moratorium and Mediation Laws.

### Landlord-Tenant Relations

Iowa - Ch. 235, Termination of Agricultural Leases (S.F. 203). The landlord-tenant laws of the State, providing that "where an agreement is made fixing the time of the termination of the tenancy, whether in writing or not, it shall cease at the time agreed upon, without notice" (Sec. 10161 Code 1935), are revised so as to make an exception in the case of farm tenants, not mere croppers, occupying and cultivating as much as 40 acres. Such tenancies are to continue for the following crop year, upon the same terms and conditions as the original lease, unless written notice for termination is given by either party not later than November 1.

Oklahoma - Ch. 53, Act 1, Repeal of the Farm Landlord and Tenant Relationship Act (S.F. 82). This Act repeals Senate Bill No. 272 (1937 Session Laws), known as the Farm Landlord and Tenant Relationship Act.

The purpose of the Act was to create a better relationship between farm landlords and tenants through the sponsoring of educational programs designed to show the advantages of long term contracts; assisting landlords and tenants to take advantage of existing farm organizations, associations and cooperatives; and working out a basis for the arbitration of landlord-tenant disputes.

### State Fund Mortgages

Arizona - Ch. 37, Land Settlement Contracts (H. B. 147). The Land Settlement Law of 1929 (Sec. 3, ch. 43 Session Laws of 1929) is amended so as to allow payments of principal and interest to be made on January 1 of each year until a total of 30 such payments has been made. Furthermore, the Land Settlement Board is allowed to reform

(Land Tenure cont.)

any contract by reducing the purchase price of the land to not less than \$25.00 per acre. The minimum purchase price in the old law was \$100.00 per acre.

Arizona - Ch. 86, State Permanent Fund Mortgages (H. B. 26). The State treasurer is directed to: (1) investigate all unliquidated loans of "permanent funds" secured by mortgages on farm lands; (2) make a detailed field examination of the property; (3) proceed promptly to liquidate the loans; and (4) to make a written report of his actions to the next session of the legislature.

Up until July 1, 1939, the State treasurer, with the consent of the Governor and the Secretary of State, had authority to make 5-year extensions on delinquent bonds. He also still has the power to assign any note secured by mortgage to the State on farm lands, provided the consideration is not less than the full amount of principal and interest owing thereon. Other loans in default, unless one of the above actions has been taken, are to be foreclosed and the lands so acquired by the State are to be managed for the benefit of the permanent fund.

Minnesota - Ch. 417, Rural Credit Compromises (S.F.1413). Authorizes the Conservator of Rural Credit to petition the District Court of Ramsey County for authority to compromise on a cash basis, the indebtedness due on contracts made by the State for the sale of rural credit lands.

Oklahoma - Ch. 28, Art. 3, Sale of Foreclosed Lands (H.B. 294). The Commissioners of the Land Office are authorized to appoint two duly qualified appraisers whose duty it will be to make a new and complete appraisal of all lands acquired by the State through the foreclosure of mortgages. Appraisals are to be based on the fair value of land and improvements, soil type and crops for which it is adapted.

Sales of foreclosed lands are to be made at public auction. The purchaser may pay 5 per cent down and have 25 years within which to pay the balance. The State reserves 50 per cent of the minerals. The purchaser agrees personally to farm the land for not less than 5 years, and agrees to follow suggestions for better agricultural production and soil conservation made by the Soil Conservation Division of the Commissioners of the Land Office.

Wyoming - Ch. 23, Farm Loan Board Mortgages (H.B. 45). The Farm Loan Board Mortgage Law is amended so as to reduce the interest rate on defaulting payments from 8 to 4 per cent; and to extend to March, 1944 (from March, 1939) the period during which the Loan Board may make further concessions in or

(Land Tenure cont.)

cancellations of interest on defaulted payments. The amendment applies to both old and new loans.

### Miscellaneous

Arizona - Ch. 31, Rights and Privileges of Foreign Corporations (H.B. 69). Section 660, Revised Code of 1928, is amended to provide that "no alien corporation hereafter shall ever own or hold any land within the State of Arizona. No foreign corporation shall hereafter be appointed to act as executor, administrator, trustee or guardian of the estate of a minor or incompetent person; or in any other fiduciary capacity except in the capacity of testamentary trustees."

Maryland - Res. No. 16, Continuation of Study by Land Laws Commission (S.J.R. 10). The Land Laws Commission appointed by the Governor, pursuant to mandates of the General Assembly in 1935, and 1937, is continued. A report on all subjects considered is to be submitted to the Governor not later than December 31, 1940; and it is suggested that drafts of bills in conformity with the resolutions of the Commission be included.

## LAND USE REGULATION AND DEVELOPMENT

### Erosion Control

Kansas - Ch. 158, Incorporation of Associations for Erosion Control (H.B. 45). Private non-profit corporations may be formed for the purpose of preventing or aiding in the prevention of soil erosion. Such corporations are empowered to lease or otherwise acquire the management or control of land subject to erosion, and may cultivate it in any manner; but they are forbidden to engage in general farming, or to produce any grain or forage crops for marketing purposes.

Oklahoma - Ch. 38, Art. 8, Abatement of Wind Erosion Hazard (S.R. 218). A County Wind Erosion Control Committee or any individual living within one-half mile of any tract of land constituting a wind erosion hazard and nuisance may file a complaint with the Board of County Commissioners. Thereupon the Board will send a registered letter to the last known owner and occupant of the land indicating a date when a hearing will be held. If the Board finds the allegations of the complaint to be true, it may hire some person to prepare the land and plant it to sudan grass or cane, in such manner as may be approved by the county agent. The cost of the work is to be paid out of the "County Erosion Fund." (The County Erosion Fund is derived from a State tax on farm tractors--Laws of 1937, Ch. 50, Art. 9).

(Land Use Reg. & Dev. cont.)

Oklahoma - Ch. 38, Art. 9, Wind Erosion Control Law (H.B. 359). Minor changes are made in the law enacted in 1937 (Ch. 38, Art. 5, Sec. 6).

Oklahoma - Ch. 35, Art. 8, Soil Erosion Control (H.B. 457). Minor changes are made in the law enacted in 1937 (Ch. 35, Art. 5, Sections 2 and 3).

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### Forestry

Alabama - Gov's. No. 492, Forest Protection (S. B. 347). Wilful, malicious or wanton negligence in the setting of fire on the lands of another or allowing fire to escape from ones own land to that of another, is made punishable as a misdemeanor by both fine and imprisonment. Similar punishment is provided for the violation of other general standards for clearing surrounding forests and woodlands before setting fires and obtaining permits from the Department of Conservation for fires set within any area which has been placed under organized fire protection.

Fires burning uncontrolled on forest, cut-over, brush or grass lands, are declared to be a public nuisance and may be suppressed as such, costs of suppression to be charged to the person responsible for starting the fire.

Alabama - Gov's. No. 562, County Forest Protection (H.B. 620). If a majority of the freeholders in a county so petition the county governing body, a special annual tax of not over 4¢ per acre on the forested acreage of the county may be levied for the purpose of carrying on forest protection work in cooperation with the State.

Florida - Ch. 19274, Everglades Fire Control District (H.B. 251). The Everglades Fire Control District is created for the purposes of carrying on fire protection and fire control work within the Everglades Drainage District. The members of the Board of Commissioners of the fire control district are to be appointed by the Governor, one from each of the 11 counties within its boundaries. The Commissioners appoint the Chief Fire Warden and are responsible for both fire prevention and fire suppression measures undertaken in the District.

The State is supposed to appropriate \$75,000 annually to support the district's activities.

Maine - Ch. 224, Construction and Maintenance of Forest Trails and Roads. To the previously delineated duties of the

(Land Use Regu. & Dev. cont.)

Forest Commissioner in connection with the prevention, control, and extinguishment of fires, there is added the duty of constructing and maintaining trails and roads on his own account, and especially of maintaining forest truck trails constructed by Federal agencies.

Michigan - Public Act 241, Commercial Forest Reserves. (S.B. 90). The commercial forest reserve law, enacted in 1925 (Act No. 94), is amended so as to (1) better define the classification of commercial forest reserves; (2) allow withdrawal of land from the reserve upon payment of 3¢ per acre for each year that it has been registered plus a graduated charge on the stumpage value of growing merchantable timber; (3) change the 25 per cent yield tax to a sliding scale charge calculated in accordance with the number of years in the growing period; and (4) accord yield tax exemption to forest material cut for domestic use or used in harvesting forest crops.

Minnesota - Ch. 418, Interim Forestry Commission (S. F. 1421). Establishes an interim Legislative Commission to consist of 3 members of the House of Representatives appointed by the Speaker, 3 members of the Senate appointed by its President, and the Commissioner of Conservation. The duties of the Commission are to study and investigate forest fire protection, windbreaks and shelter belts, forest taxation, State aids for long-time comprehensive forestry programs, and other matters pertinent to the development of an adequate State-wide forestry policy. A report of these investigations is to be made at the opening of the next regular session of the Legislature.

Missouri - Page 347, Setting Fire to Woods (H.B. 190). Wilfully setting fire to any "lands, fields, crops, woods, marshes, or prairies" belonging to another, is made a misdemeanor. The replaced statute (Ch. 30, sec. 4162, Mo. Stat. Ann.) had been limited to "woods, marshes, or prairies." Wilfully permitting fire to pass from one's own lands to those of another; carelessness in handling lighted matches or other burning articles resulting in fire damage; and abandoning fires started on the land of another; are all subject to punishment as misdemeanors. While the crime is thus more comprehensively defined, the punishment is reduced to a fine of \$100 or imprisonment for 6 months.

Nebraska - Ch. 38, Rural Fire Protection Districts (L.B. 336). A majority of the electors of any district, neighborhood, or community, equivalent in area to one township or more and lying outside the boundaries of incorporated cities and towns, are authorized to form rural fire protection districts. The County Clerk, upon receipt of a sufficient petition, calls an organization meeting, the time and place of which are to be advertised in a newspaper of general circulation. At the meeting a President, Vice-President, Secretary-Treasurer and a Board of Directors consisting of 5 members, are to be elected. The meeting also determines a general fire protection policy for the

(Land Use Reg. & Dev. cont.)

district, either by a majority vote or by delegation of authority to the Board of Directors. A tax not to exceed one-half mill may be levied to carry out the program. Cooperation with other rural fire protection districts is authorized, as well as contracts for the fire protection service of incorporated cities or towns.

New Hampshire - Ch. 129, Prevention of Forest Fires. The State Forester and those appointed to act for him may, with the approval of the Governor and Council, lawfully enter upon privately owned land for the purpose of disposing of brush and other inflammable materials which constitute a fire hazard. The effective period of this act is limited to July 1, 1941.

New Mexico - Ch. 141, Protection of Public and Private Forests (S.B. 146). Anyone cutting "saw timber species" from land within the State must observe the following regulations: (1) All reasonable precaution to prevent and suppress fires must be taken. (2) In felling trees, skidding and transporting logs, protection must be given young trees. (3) All trees less than 12 inches in diameter at a point  $4\frac{1}{2}$  feet above ground must be left standing and two 17-inch seed trees per acre must be left. Trees between 5 inches and 12 inches in diameter may be used for non-lumber manufacturing purposes, however, if four seed trees are left per acre. (4) Fire lines must be constructed by piling and burning slash for 50 feet on each side of main hauling roads.

Administration of these regulations is delegated to the Commissioner of Public Lands. Enforcement is to be by inspection and by criminal prosecution for violation (\$200 fine or 6 months in the County Jail). Jail sentences imposed for violations committed by a firm, association or corporation, are to be served by the officer or agent responsible.

Cooperative agreements between the State and Federal governments are authorized in order to carry out the provisions of the Act.

New York - Ch. 96, Forest Fire Protection. The conservation laws are amended by giving the Governor additional powers over the closing of land to entry during periods of exceptional fire hazard. His proclamation may now include not only forest and woodlands, but open lands as well; and he may suspend any open season for fishing or hunting.

North Carolina - Ch. 317, Promotion of Forestry (S.B. 161). The Division of Forestry, in order to perpetuate the State's forest resources, is required to inaugurate a policy

(Land Use Reg. & Devl. cont.)

of cooperation with private and public forest owners, involving the following points: (1) extension of fire protection to all counties having a need for it; (2) cooperation with Federal reforestation projects; (3) supplying trained forest managers to advise forest landowners on all phases of silviculture; (4) distribution of literature; and (5) maintenance of small demonstration forests at various points in the State.

North Carolina - Ch. 341, Tree Seedlings for Soil Conservation Districts (S. E. 434). Repeals the requirement that forest tree seedlings for soil conservation districts be obtained from the State Forest Nursery.

Oregon - Ch. 347, Rural Fire Protection Districts (H.B. 397). Twenty-five per cent of the title holders of lands not including timber lands within a given area outside incorporated territory may petition the county for the establishment of a rural fire protection district. When created, these districts have the usual powers of ad hoc districts in the performance of their function of fire protection, including the power to contract with other fire protection agencies for equipment. A previous rural fire district law is repealed.

South Carolina - Chs. 102, 144 and 310, Forest Fire Control Organizations. The Forest Fire Control Organization Enabling Act for York County, passed in 1938 (Act No. 798) is repealed, and new Acts are adopted to permit Marlboro and Orangeburg counties to engage in forest fire control work. In both of the new Acts provision is made for the appointment of a county Forestry Board consisting of a State forester (or a member of the State Forest Service), a member of the County Delegation, the county farm demonstration agent and 4 members elected by the County Delegation, one of whom is to be a lumberman, one a landowning farmer and the other two to be selected from the county at large. Fire wardens, patrolmen and towermen are appointed by the Board, and the boundaries of the forest land area within the county are defined by it. No limitation is placed upon owners of forest land as to burning over their own land, so long as the fire is not allowed to spread to land of another.

Tennessee - Ch. 213, Forest Fire Prevention (H. B. 1193). Setting fire to any forest in the State is made a criminal offense, punishable by imprisonment in the State penitentiary from one to five years.

The State highway patrolmen and county sheriffs are empowered to summon a sufficient number of men between the ages of 18 and 30 to control any forest fire which may be burning within their respective jurisdictions. Failure to comply with this summons constitutes a misdemeanor.

(Land Use Reg. & Dev. cont.)

Texas - Fire Protection Agreements (H.B. 468). Commissioners' Courts in counties having more than 20,000 inhabitants and a property valuation in excess of \$100,000,000 may make agreements with the governing bodies of municipalities therein for the purpose of furnishing fire protection outside incorporated areas.

Texas - Forest Fire Protection (S.B. 102). It is made a misdemeanor to set fire to woods, fences, grass or rubbish, on the land of another, or to commit wilful and malicious incendiarism. The punishment is particularly heavy in the case of damage to a turpentine-producing pine forest.

Vermont - Temp. No. 54, Burning Permits. Establishes a closed season between April 1, and June 15, and between August 15 and October 31. During this season, anyone kindling a fire in the open air outside the limits of a city or village fire district, for the purpose of burning brush, weeds, grass or rubbish, must first obtain a permit. Permission need not be obtained for kindling a fire in a plowed field, garden, public highway or railroad right-of-way, if not less than 200 feet from any woodland, timberland or field of dry grass. The State Forester may suspend the operation of this Act whenever he deems that the public safety does not require such precautionary measures.

Washington - Ch. 130, Sustained Yield Units (S.B. 456). The State Forest Board, with regard to Forest Board lands, and the Commissioner of Public Lands, with regard to State granted lands, are authorized to enter into cooperative agreements with the United States Government and with private owners of timber land, providing for coordinated sustained yield forest management units, including cutting methods and silvacultural practices.

Washington - Ch. 34, Fire Protection Districts (H.B. 81). Fire protection districts may be established in areas not containing land required to pay forest protection assessments. These have the status of political subdivisions, with power to levy and collect taxes. The process of forming a district is begun by the filing of a petition signed by not less than 15 per cent of the registered electors resident within the proposed boundaries, and filed with the county Auditor. A hearing is then held by the Board of County Commissioners. If the hearing concludes favorably, the Board fixes the boundaries of the proposed district, nominates 3 candidates for Fire Commissioner and submits the question of establishment to the voters at a special election. A two-thirds vote is necessary to carry the proposition.

An established district is authorized to acquire any necessary interest in real and personal property, to provide and operate fire-fighting equipment, and to create rural improvement districts.

West Virginia - Ch. 64, Forest Fire Seasons (S.B. 204). As a part of an extensive revision of the conservation laws (Ch. 20, W.Va. Code) the following new provisions are added to the State Forest fire control regulations: (1) The period between March 20 and May 20 and the period between October 15 and December 15 are designated as forest fire seasons. (2) During the fire seasons permits must be obtained for setting fire to forest land and for grass, stubble, brush, or slash when located within 300 feet of forest land. (3) Persons who in the course of clearing property of brush, undergrowth, etc., use incendiary means on the property of another, or who for any purpose wilfully start a fire on the property of another with resulting damage and destruction, are declared to be guilty of a felony. (4) The throwing of lighted matches, cigars, cigarettes, and other lighted material on forest lands, public highways, or railroad rights-of-way, is prohibited during the fire season. (5) The use of stationary engines with faulty spark arresters and ash pan equipment is forbidden within one-eighth mile of forest land during the fire season.

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#### Soil Conservation Districts

Alabama - Governor's No. 147, New Act (S. B. 66). While following the "Standard Act" rather closely, important variations to be noted include the following: (1) Supervisors are all appointed by the State Committee. (2) Only owners may sign the petition for organizing a district. (3) Adoption of land use regulations must be by four-fifths of those voting on the question. (4) No provision is made for the appointment of a Board of Adjustment. (5) Only civil damages are imposed in case of violation of an ordinance. (6) Petitions for disorganizing a district may be entertained after 3 years instead of 5.

California - Ch. 312, Amendment (A.P. 1669). The 1938 Act (Ch. 7, Extra Session) is amended by: (1) requiring that 25 per cent of the owners of 25 per cent of the land, or as an alternative, 500 owners owning not less than 10 per cent of the land, sign the organization petition instead of a majority of the own-

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4/ Except as noted for each State, the new Soil Conservation Enabling Acts listed below are similar to the "Standard Soil Conservation Districts Law" prepared by the USDA in 1936 (Government Printing Office, Washington, D.C.). This law was digested in Bulletin 29, p. 49a.

(Soil Cons. Dist. cont.)

ers of a majority of the land; (2) authorizing the adoption and enforcement of land use regulations; (3) providing that only landowners may vote in an election to authorize a special assessment or to approve a land use regulation; (4) shortening somewhat the time within which appeals may be filed and heard by the Supreme Court; and (5) changing in some measure the penalties for violation of the law and the procedure for adding new land to a district.

Colorado - Ch. 160, Amendment (S.B. 160). The 1937 Law (Ch. 241) is amended so as to require that taxes or assessments be approved by a majority vote of the resident landowners of the district, at a regular or special meeting.

Florida - Ch. 19473, Amendment (H. B. 976). The State Committee provided for in the 1937 Law (Ch. 18144) is abolished, and its duties are transferred to the State Board of Control (A 5-man Board in charge of State institutions, including the University of Florida). Further amendments include: (1) Requirement that all district Supervisors be elected -- any 5 of the original petitioners performing temporarily the functions of the 2 members formerly appointed by the State Committee. (2) Requirement that the Supervisors themselves serve as an ex officio Board of Adjustment rather than having them appoint a separate Board. (3) Disorganization requires the approval of at least two-thirds of the qualified voters of the district.

Idaho - Ch. 200, New Act (S.B. 136). Follows the "Standard Act" very closely, except that sections relating to the adoption and enforcement of land use regulations are omitted and that only owners may sign the organization petition.

Illinois - Page 83, Amendment (S.B. 378). The 1937 Law is amended so that the State Board now bears all expenses entailed by the issuance of notices and the conducting of hearings and referenda on the establishment of a district.

Iowa - Ch. 92, New Act (S.B. 186). Follows "Standard Act" on essential features, except that: (1) Only landowners may sign the organizing petition (must be at least 20 per cent of the owners). (2) A district may be established only if favored by 65 per cent of the owners voting in the referendum. (3) Three supervisors are regularly elected from among legal residents of the district to serve for a term of 6 years. (4) The two State Committee appointees continue in office only until the 3 regular supervisors are elected. (5) The State Committee has discretionary authority to select a successor to an elected supervisor to fill an unexpired term. (6) No provision is made for adopting and enforcing land use regulations.

(Soil Cons. Dis. cont.)

Montana - Ch. 72, New Act (H.F. 126). This Act differs essentially from the "Standard Act" only in that: (1) Two farmer members are to be appointed to the State Committee. (2) Only 10 occupiers of land need sign the petition for organizing or disorganizing a district. (3) Sixty-five per cent of the votes cast must favor organization, and the same percentage applies to referendum on land use regulations. (4) All 5 Supervisors are elective except that the 2 State Committee temporary appointees serve for terms of one and two years respectively.

New Mexico - Ch. 163, Amendment (S.E. 92). Amends the 1937 Law (Ch. 219) by requiring that the State Committee determine what part of each district is range land, and what part farm land. Two of the 3 elected Supervisors are named by the owners of land in that zone ("range land" or "farm land") containing the larger proportion of the total number of landowners, and the other by the landowners of the other zone. Land use regulations must be separately submitted for each zone, and the landowners will vote only on those regulations applicable to their zone. The petition for organization must be signed by land owners.

North Dakota - Ch. 6, Amendment (S.E. 89). Section 6 of the 1937 Law is amended so as to provide an election procedure for choosing the 3 elective Supervisors (old form stated only that 3 Supervisors were to be elected from among land occupiers). Section 8 is amended so as to require that land use regulations be approved by three-fourths of the votes cast in the referendum. Finally, the section on enforcement of land use regulations is amended by deleting the clause which made violation a misdemeanor.

Oregon - Ch. 555, New Act (H.B. 366). Points of difference from the "Standard Act" are briefly; (1) any 25 owners of land, or the owners of at least 70 per cent of the acreage of the proposed district must sign the organizing petition. (2) A majority of the landowners owning 70 per cent of the land, must vote favorably in the referendum on establishing a district. (3) Nominating petitions for supervisors must be subscribed by 25 or more owners or the owners of more than 50 per cent of the land. (4) Owners of a majority of land constitute a quorum for the election of Supervisors. (5) Three-fourths of the majority of votes cast representing two-thirds of the land must favor the adoption of land use regulations. (6) No land use regulation can be adopted without the written approval of the State Committee.

Pennsylvania - Act No. 366, Amendment. The 1937 Act (P.L. 2724) is amended so as to require that petitioners for the formation of a district be "owners" instead of "occupiers" merely, as formerly. The amendments also provide that only owners are eligible to vote in a referendum; and that 65 per cent of the votes

(Soil Cons. Dist. cont.)

cast, instead of a bare majority, is necessary to decide a question.

Tennessee - Ch. 197, New Act (H. B. 906). The State Committee is to be composed of 3 ex officio members and 3 farmer members (one of whom will be chairman), representing 3 geographical districts of the State. No provision is made for the creation of a Board of Adjustment. Only landowners may sign the organization petition or vote in the referendum on the question adopting land use regulations, and two-thirds of the votes cast must be favorable for the question to be carried.

Texas - New Act (S.B. 20). The process of selecting the 5 elective members of the State Committee begins with a convention of landowners in each precinct of each county -- to be called by the County Commissioners Court. These conventions elect members of a County Soil Conservation Advisory Committee. That Committee chooses delegates to one of 5 "State District Conservation Conventions" and each convention elects one member of the State Committee (counties in each of the 5 districts are listed in the Act). An additional group of 5 advisory members, including the State Coordinator for the Soil Conservation Service, is designated.

A limitation of 3000 square miles is placed on the area to be included in a district. Only landowners may sign the organization petition (any 50 or a majority of owners must sign) or vote in the referenda. Referenda are carried only if two-thirds of the votes cast, in the case of organization, and nine-tenths in the case of a land use regulation, are favorable. The general election laws of the State must be followed in electing Supervisors.

Vermont - Temp. No. 202, New Act. Most of the main features of the "Standard Act" are preserved in somewhat abbreviated form. Only owners of land may vote in the referenda, although an owner may designate a proxy, and a simple majority is sufficient to carry the proposition for organizing a district. The Act contains an incomplete provision for consideration of land use regulations, but authority for the district Supervisors to enact and enforce them has apparently been omitted.

Washington - Ch. 187, New Act (S. B. 343). There are 2 farmer members on the State Committee appointed by the Governor. Only landowners may sign the organization petition or vote in the referenda or at the election of Supervisors. Only a simple majority of votes cast need be favorable to the proposition of organizing a district, but two-thirds must approve the adoption of land use regulations. Fifteen signers of a petition to disorganize is sufficient.

(Soil Cons. Dist. cont.)

West Virginia - Ch. 5, New Act (S.B. 199). Only landowners sign the organization petition or vote in referenda. In order to be approved, 60 per cent of those voting must favor the organization of a district, or the adoption of a land use regulation. No land use regulation may be adopted without the approval of the State Committee. Disorganization proceedings may be initiated after 3 years.

Wisconsin - Ch. 323, Amendment (A.B. 862). The 1937 Law is amended in such a way as to cause all future soil conservation districts to be composed of single counties. The members of the "Special Committee on Agriculture", created pursuant to a previous enactment to assist county agricultural agents (see Sec. 5987), are ex officio the district supervisors. "Land occupiers" are so defined as to exclude common tenants from voting in the various referenda. Districts are to be created, not by action of the State Committee pursuant to petition, hearing and referendum, but simply by County Boards of Supervisors. County Boards may likewise (after 5 years) discontinue a district upon a determination (after hearings, petitions, referenda or otherwise) that "a substantial proportion" of rural land occupiers so desire. Land use regulation ordinances may be drafted by the district Supervisors and adopted by the County Board; adoption being conditioned upon approval by two-thirds of the land occupiers in the affected area as shown by a referendum.

### Miscellaneous

Arkansas - Act No. 105, Creation of an Oil and Gas Commission (S.B. 26). An Oil and Gas Commission of 7 members is created to prevent waste and to foster, encourage, and provide conservation of crude oil and natural gas. The Commission can make rules, regulations, and orders for the purpose of: (1) requiring that the drilling, casing, and plugging of wells be done in such a way as to prevent escape of oil and gas from one stratum to another; (2) requiring the making of reports showing the location of oil and gas wells; (3) preventing the drowning by water of any stratum capable of producing oil or gas in paying quantities; (4) requiring the operation of wells with efficient gas-oil ratios; (5) preventing "blow outs," "caving," and "seepage;" (6) preventing fires; (7) identifying ownership of wells and refineries; (8) regulating the "shooting," perforating, and chemical treatment of wells; (9) regulating secondary methods; (10) limiting or prorating production; (11) requiring certificates of clearance for transportation of oil or gas; (12) regulating the spacing of wells; (13) preventing reasonably avoidable drainage from each developed unit which is not equalized by counter drainage.

\$43,000 per annum has been appropriated for the use of the Commission during the next biennium (Act No. 253).

(Land Use - Use. cont.)

Connecticut - Ch. 158, Removal of Brush (H.B. 97). Persons are forbidden to leave brush piled for a period of more than 10 days within 25 feet of a highway or 100 feet of a building. Farm Products, wood products for domestic use, and articles exposed for sale, are excepted.

Minnesota - Ch. 130, Clearing Unimproved Land (H. F. 841). In counties containing: (a) vacant and unimproved land to the amount of 34 per cent of its area; (b) 200 congressional townships; (c) at least 200,000 inhabitants, and (d) an assessed valuation of \$270,000,000, the Board of County Commissioners is authorized to establish a \$15,000 revolving fund to be used for purchasing necessary equipment and deferring other costs of clearing and improving agricultural lands. Only non-delinquent land belonging to resident-owner-operators may be cleared, and then not to exceed 10 acres in any year.

Owners desiring to have their land cleared by the use of "angledozers or bulldozers" make application to the county agricultural agent. The county agricultural agent and county auditor, guided by available land classification information, determine whether the land is suitable for agricultural purposes, and pass the application on to the County Board with their recommendations. The Board may in its discretion approve or reject the application. Cost of the work is borne by the landowner but may be paid over a 4-year period.

Missouri - Page 414, Fencing Land Upon Which Poisonous Crops are Planted (H.B. 127). The State fencing laws are amended so as to require that land planted to sorghum or other poisonous crops be fenced to prevent injury to horses, cattle and other stock. The Act does not apply to counties and townships where a stock law has been adopted.

## PLANNING AND ZONING

### Advertising

Delaware - Regulation of Outdoor Advertising (H. B. 312). The State Highway Department is charged with the duty of regulating outdoor advertising, and empowered to prohibit entirely certain types. Every outdoor advertising device displayed on real property must bear a permit tag indicating that it has the approval of the Department and that of the property's owner or tenant. Signs used to identify business conducted on the premises or to advertise property for sale or rent are excepted. Zoning Boards may not authorize outdoor advertising prohibited by the Highway Department, nor may the latter issue permits in contradiction of local zoning regulations.

(Planning & Zoning, cont.)

Florida - Ch. 19195, Signboard Control Along Highways (H.B. 1338). In the interest of public safety, the County Boards of counties having between 13,300 and 13,360 inhabitants are granted the power to regulate or prohibit the erection and maintenance of signboards, placards, posters, etc., within 200 feet of the center line of a public highway.

Tennessee - Ch. 83, Control of Outdoor Advertising (H.B. 413). Regulation of outdoor advertising outside the limits of incorporated cities is provided for in two ways; (1) No one may put a sign on the property of another, without his written consent; (2) if the written consent be given, a State permit fee of 50 cents per sign must be paid, and a prescribed metal tag conspicuously attached. The Department of Highways and Public Works is authorized to enforce the law by destroying untagged outdoor advertising signs along State highways outside the corporate limits of towns or cities. Tags are valid from July 1 in any year to the following June 30, after which they must be renewed.

Real Estate Promotion

North Carolina - Ch. 274, Liquidation of Real Estate Commission (H. B. 895). The North Carolina Real Estate Commission, created for the purpose of regulating, supervising and licensing real estate brokers and salesmen (Ch. 292, Laws of 1937), is liquidated in conformity with a decision of the State Supreme Court declaring it unconstitutional.

Pennsylvania - Act No. 58, Subdivision Control. The second class city planning enabling legislation (1927 P.L. 1011, Section 10) is amended by requiring the planning commission, in formulating subdivision regulations, to take into consideration existing buildings, improvements, building lines, streets, highway use on abutting streets, and the effect on public welfare.

State Planning Boards

New Mexico - Ch. 158, State Planning Board (S.B. 114). A State Planning Board is created as a division of the executive department. Its purpose is to act as an official agency in conducting research, distributing information, and recommending long-term plans for the conservation and development of natural, economic and human resources; and it is charged with coordinating all Federal, State, and private activities in this field. Public officials, both State and local, are required to furnish it with such available information as may be necessary to the performance of its duties.

(St. Plan. Bds. cont.)

Its 6 members are to be appointed by the Governor without regard to political affiliation; and no member may hold any State or Federal office. They are paid \$10 per day, plus 6¢ per mile for the use of private cars in necessary travel.

North Dakota - Ch. 203, State Planning Board Abolished (H. B. 51). The 1935 law establishing a State Planning Board (Ch. 217 - Session Laws) is repealed.

Oregon - Ch. 551, Abolition of State Planning Board (H.B. 165). Laws relating to the creation and functioning of the State Planning Board are repealed.

South Dakota - Ch. 210, State Planning Board Abolished (H. B. 19). The State Planning Board is abolished and all its records, data, supplies and equipment are transferred to the Secretary of Agriculture.

Wyoming - Ch. 117, State Planning and Water Conservation Board (H.B. 136). The old State Planning and Water Conservation Boards are consolidated into a State Planning and Water Conservation Board. The new Board consists of 8 members, of which the Governor, the State Highway Superintendent, the State Engineer, and the State Game and Fish Commissioner are ex officio. The remaining 4 are appointed by the Governor with the consent of the Senate, one from each of the 4 water divisions of the State. Subjects which the Board may consider in its investigations and planning include: (a) surface, sub-surface, and other water uses; (b) transportation; (c) propagation and protection of game and fish; (d) land classification; (e) mineral resources; (f) education, health, and fuel service, and (g) improvement and economy of public services.

### Unincorporated Areas

Colorado - Ch. 92, County Planning and Zoning (S.B. 278). Boards of County Commissioners in all counties of the State are authorized to plan and zone unincorporated territory as well as to cooperate with the governing bodies of municipalities and of other counties in carrying out regional planning and zoning work.

The preparation of a master plan is authorized, on a county or regional basis, to include "the general location, character and extent of streets or roads, viaducts, bridges, parkways, playgrounds, forests, reservations, parks, airports, and other public ways, grounds, places and spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, light, power, sanitation, trans-

(Unincorporated areas, cont.)

portation, communication, heat, and other purposes; the acceptance, widening, abandonment, or change of use of any of the foregoing public ways, grounds, places, spaces, buildings, properties, utilities, or terminals; the general character, location, and extent of community centers, town sites, or housing developments; the general location and extent of forest, agricultural areas, and open development areas for purposes of conservation, food and water supply, sanitary and drainage facilities, or the protection of urban development; and a land-classification and utilization program."

The scope of zoning ordinances is limited to "the regulation by districts or zones of the location, height, bulk, and size of buildings and other structures, percentage of lot which may be occupied, the size of lots, courts, and other open spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, recreation or other purposes."

The master plan is prepared by a 5-member county planning commission appointed by the County Board (except in counties having less than 15,000 inhabitants where the County Board constitutes the planning commission), or by regional commissions appointed by cooperating governing bodies. When completed, a copy of the master plan and the resolution of the commission adopting it is certified to the county board and cooperating bodies. When this has been done, no public works may thereafter be constructed without the approval of the planning commission unless overruled by a majority of the county board.

The planning commission also prepares drafts of zoning ordinances for subsequent public hearing and adoption by the county board. Any substantial change in a proposed ordinance made as a result of the hearing must again be referred to the planning commission. Prior to adoption, the State Planning Board also must be given opportunity to advise and criticize.

Subdivision development plans are required to be recorded in zoned counties and must in every case receive the approval of the planning commission.

The creation of a Board of Adjustment consisting of 3 to 5 members appointed by the County Board is made mandatory in zoned counties. Appeals may be made by any party or official affected.

The continuance of non-conforming uses is provided for, although the County Board may require that they be (a) terminated within a specific period or (b) terminated in accordance with a formula designed to allow recovery of the investment.

Florida - Ch. 19525, Pinellas and Polk Counties (H.B. 1590). The County Boards of these two counties are authorized to zone the territory lying within  $1\frac{1}{2}$  miles of city limits, for business, trade, manufacture and commerce. They may likewise restrict the

(Unincorp. Areas, cont.)

use of lands adjacent to public highways throughout the unincorporated parts of the county, and may prohibit the conduct of any unaesthetic business, trade, manufacture or commercial enterprise within 1500 feet of a highway.

This Act does not apply to lands used for residential, agricultural, horticultural or dairy purposes.

Georgia - Laws affecting county zoning in the following 7 counties were enacted in 1939:

Bibb County (Act No. 281, p. 403). Very general zoning authority is given the county governing body, but no zone or district may be created without the consent of 51 per cent of the property owners affected. Applies only to counties with a population of 75,000 to 100,000 (at present, Bibb County).

Camden County (Act No. 323, p. 520). The Commissioners of Roads and Revenues are given authority to regulate "the height, number of stories and size of buildings and other structures; the percentage of lots which may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings and other structures for trade, industry, residence, recreation, public activity, and other purposes; the use and conditions of use or occupancy of land for trades, industry, residence, soil conservation, forestry or other purposes; . . . and to establish set-back lines for buildings and other structures, within 200 feet of the center line of roads in the State highway system.

The creation of a county planning board is provided for; and if the county takes advantage of the authority granted by this law, it is required to appoint a board of adjustment. Cooperation between the Camden County Planning Board and the planning and zoning boards of other counties, cities or villages is suggested, with a view to coordinating and increasing planning and zoning in the surrounding region.

Clayton County (Act No. 15, p. 542). The Board of Commissioners of Roads and Revenues may create and establish restricted zones or districts within the unincorporated portions thereof, in which the character and kind of buildings or structures may be controlled. The erection, maintenance or use of any building within a restricted zone, in violation of an order of the Board of Commissioners, is declared to constitute a nuisance, and is subject to the customary legal remedies for the abatement of nuisances.

Fulton County (Act No. 65, --. 584). The Board of Commissioners of Roads and Revenues is empowered to create a County Planning Commission and a board of Zoning Appeals as instrumentalities for the preparation and administration in unincorporated territory of zoning ordinances pertaining to "proper location of streets, apartment houses, dwellings and other uses of

(Unincorp. Areas, cont.)

property or land, the height of buildings, the area of the lot to be occupied, the provision of yard space and the fixing of building lines."

McIntosh County (Act No. 31, p. 669). Similar to Camden County but not restricted to area bordering highways.

Paulding County (Act No. 82, p. 700). Similar to Clayton County.

Richmond County (Act No. 342, p. 406). Amends Act No. 133, 1937-1938 Extra Session, page 414, so as to require written consent of 51 per cent of the owners of zoned property before ordinances become effective."

Act No. 283, p. 245. The Board of County Commissioners or other fiscal agents of Richmond County are granted the power to designate building inspectors for the unincorporated parts thereof. They also have power to zone with respect to location of residences, filling stations, tourists camps, manufacturing plants and other buildings and they may regulate and control the placing of signs and billboards.

Kansas - Ch. 164, Zoning in Counties Having a Population of More Than 47,000 Except Counties Having a Population Between 100,000 and 140,000 (H.B. 289). In certain counties, as indicated by the title, all unincorporated portions of any township which borders upon the city limits of a city of the first or second class, may be zoned.

A bi-partisan, 5-member zoning board, appointed by the County Commissioners, is empowered to restrict and regulate, insofar as approved by the Commissioners, "the area within which trade, industry, and recreation may be conducted, and the location and use of buildings and other structures, designed for any specific industry, business, trade, or residential property, and whether such residential property may be used and occupied by single family dwellers or for more than one family, and other uses, including the distance of any such building from the road or street, and to regulate and restrict the intensity of such uses and occupation outside the limits of incorporated cities; to prohibit houses, buildings, or structures incompatible with the character of such district, respectively."

Kansas - Ch. 165, Township Zoning (H.B. 312). Planning and zoning powers almost identical to those found in chapter 164, are granted to the county commissioners of counties bordering on another State and having a population between 25,000 and 40,000, with respect to any township all or part of which adjoins a city having a population of more than 100,000 inhabitants, or a township with a population of more than 5000 inhabitants bordering on a county containing a city of more than 100,000 inhabitants. The zoning board is appointed on a township basis, and, like the county zoning provided for in chapter 164, it has 5 freeholder resident members. The ex officio members, however, include both

(Unincorp. Areas, cont.)

the county engineer and the township trustee. No mention is made of the political affiliations of eligible appointees.

Maryland - Ch. 633, Zoning in Anne Arundel County (H. B. 732). This Act will become operative if approved by the voters of the county at the regular election in November, 1940.

Planning under it would extend to "the location, arrangement, character, and extent of roads, waterways, waterfronts, bridges, docks and wharves, parks, forests, squares, aviation fields, airways, wildlife resources, open development areas, and other ways, grounds, and open spaces; the general location of public, including Federal, buildings and other public properties, the general location and extent of public utilities and terminals, either publicly or privately owned or operated, for light, transportation, communication, power and other purposes; the preservation and development of forests and natural scenery; the general location and extent of conservation works; the general location and extent of housing and community projects and developments." Zoning regulations may control the "height, area, bulk, location, and uses of buildings, and the uses of land and other factors of urban, semi-urban, rural, and regional planning."

Provision is made for a planning commission of 7 members (4 appointed by the President of the County Board with its approval, and 3 by the Mayor of Annapolis with the approval of the city aldermen), for the creation of a Board of Zoning Appeals, and for the control and abandonment of non-conforming uses.

Maryland - Ch. 714, Zoning in the Maryland-Washington Metropolitan Area (H. B. 539). The Maryland-Washington regional district within Montgomery and Prince George Counties is redefined, and the Maryland National Park and Planning Commission is given the power to make more comprehensive planning and zoning regulations than were authorized by the original enabling act passed in 1927 (Ch. 448). A number of specific sections within the previously enacted statute are amended so as to conform to the enlarged authority.

Michigan - Public Act 69, Township Zoning Amendment (H. B. 42). The 1937 township zoning law (Act No. 302) is amended so as to permit townships of 1500 inhabitants or over to come within its terms. The minimum population originally fixed was 5000.

Michigan - Public Act 147, Huren-Clinton Metropolitan Authority (S.B. 115). As a device for planning and promoting recreational areas, boulevards and other park-like features, 5 counties in the Huren-Clinton area are empowered, upon the approval of the electorate, to form a Metropolitan District Authority. Acting alone or in cooperation with the Department of Conservation, the State Highway Department, and other county, State

(Unincorp. Areas cont.)

and Federal agencies, the Authority may construct, operate, and maintain parks and highways, in both the incorporated and the unincorporated parts of its jurisdiction.

Minnesota - Ch. 79, Building Regulation in Unincorporated Territory (S.F. 63). The Board of County Commissioners in Ramsey County is authorized to regulate the construction of buildings, including such things as type and size of foundations, number and size of rooms, area allotted to windows, construction of chimneys, and the like; as well as the number of dwellings per lot or tract, the distance of setback lines, and the area of land upon which structures are built.

Before any zoning regulation becomes operative in any township, it must have been consented to by the township board, which also possesses the exclusive authority to issue permits and to provide inspection.

Minnesota - Ch. 187, Township Building and Zoning Restrictions (H. F. 90). The township board of any township located in Hennepin County is authorized to submit to its voters, at a regular or special meeting, the question whether building and zoning regulations shall be adopted. If 70 per cent of the votes cast are favorable, the board may proceed to divide the town into districts or zones and to regulate buildings and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation and water supply conservation. If it so desires, the board may also appoint an advisory planning and zoning commission as well as a building commissioner.

Minnesota - Ch. 340, Rural Zoning (H. F. 1557). In those counties having a State or Federal forest or a State conservation area, the Board of County Commissioners is authorized to adopt rural zoning regulations, to: (1) guide the development of non-urban areas; (2) secure safety from fire, flood, and other dangers; (3) encourage a distribution of population and a mode of land utilization that will facilitate economic and adequate provision of public services; (4) lessen governmental expenditures; (5) conserve and develop natural resources; (6) prevent soil erosion; (7) foster agricultural and other industries; (8) protect water supply; (9) prevent waste. The zoning power cannot be used, however, to regulate the use of land for hunting, fishing, cabins, mines, quarries, gravel pits, hydro-dams, private dams, flowage areas, transmission lines and substations, or for harvesting any field crop. The Board of County Commissioners, in conjunction with the township boards, acts as a zoning commission. Ordinances establishing districts and prescribing regulations must be approved by township boards in the areas affected.

Missouri - Page 622, Planning and Zoning in St. Louis County (S.B. 12). The county court of St. Louis County is authorized

(Unincorp. Areas, cont.)

to appoint a county planning commission consisting of one judge of the court, the county highway engineer, the chairman of each municipal planning board in the county, and one resident freeholder. It is the duty of this commission to make an official master plan which may include, among other things, "studies and recommendations relative to the location, character, and extent of highways, railroads, bus, street car, and other transportation routes, bridges, public buildings, schools, parks, parkways, forests, wildlife refuges, dams, and projects affecting conservation of natural resources." The county court may further, upon recommendation of the commission, zone the unincorporated territory of the county, in order to regulate the character of buildings, the size of lots and yards, and the density of population. Provision is also made for subdivision control.

Violations of the act are punishable by fine or imprisonment, but persons feeling themselves to be aggrieved by the regulations may take their complaints to a board of adjustment.

Pennsylvania - Act No.34, Junk Yards Defined as a Nuisance. The Second Class Township Code (1933 P. L. 103, Sec. 702, XII) is amended to include the storage of abandoned or junked automobiles among the nuisances which the township supervisors may remove from private or public grounds after due notice to the owner. (Second class townships in Pennsylvania are those having less than 300 inhabitants per square mile).

Tennessee - Ch. 158, Community Planning Commissions (H. P. 1026). In order to aid in the accomplishment of a coordinate, adjusted, efficient, and economic development of unincorporated communities, the State Planning Commission is authorized to designate them as planning regions, fixing boundaries and creating a community planning commission. These regions may not exceed 10 square miles in area, and must contain at least 500 inhabitants. Initiative for establishing such a region must come from the local householders and freeholders by way of a petition addressed to the State Planning Commission. The petition must contain 100 names. Community planning commissions are to have the same powers and duties as other regional and municipal planning commissions. (Williams Tennessee Code, Sections 3407.1 to 3407.19 and 3493.1 to 3493.9).

Tennessee - Ch. 473, Private Acts, Zoning Davidson County (S.P. 1028). The Quarterly County Court of counties having between 200,000 and 250,000 inhabitants is authorized to regulate, in unincorporated areas, "... the location, height and size of buildings and other structures, the percentage of lot which may be occupied, the size of yards, courts and other open spaces, the uses of buildings, structures and land for trade, industry, residence or recreation." When a regional planning commission

(Unincorp. Areas, cont.)

has been created by the State Planning Board with boundaries defined to include such counties, the master plan and the zoning ordinances are to be prepared by it. When certified to the County Court, these ordinances may be made effective by resolution of the Court. While minor changes can be made, any important change or amendment must be approved by the regional commission; although it can be overruled by a two-thirds vote of the Court.

Provision is made for the appointment of a Board of Appeals and a Building Commissioner. Enforcement of ordinances may be by criminal prosecution (violation constitutes a misdemeanor), by injunction, abatement or other appropriate action.

Utah - Ch. 31, County Building Regulations (H.B. 180). The power to make and enforce building regulations outside the limits of incorporated cities and towns is granted to county commissioners. This is an amendment to Section 19-5-35, Rev. Stat. of 1933.

Vermont - Temporary No. 138, Zoning Amendments. The term "selectmen" as used in the zoning enabling act (Ch. 153, Public Laws) is redefined so as to include only the mayor and board of aldermen of a city and the president and trustees of an incorporated village, while the term "town" is limited to village or city. (Thus provisions allowing rural zoning are repealed).

The scope of the zoning authority is increased to include the regulation of outdoor advertising displays. A certified copy of ordinances regulating the size and location of advertising structures is to be sent to the Secretary of State.

Vermont - Temporary No. 153, Zoning Referendum. In a referendum on the question of approval or disapproval of a proposed zoning ordinance, it is sufficient for the ballot to describe the proposal by title only, without further explanation, provided that copies of the full text of the ordinance have been posted in each polling district, and published at least once in a newspaper of general circulation.

5/  
PUBLIC FINANCE

Local Governments

Idaho - Ch. 124, County School Equalization Fund (H. B. 405). In those counties where 87 per cent of the total assessed valuation is on property located outside the boundaries of school districts whose school population exceeds 51 per cent of the county's total school population, the County Commissioners may

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5/ See also GOVERNMENT ORGANIZATION AND TAXATION OF REAL PROPERTY.

(Loc. Govt. cont.)

levy a tax sufficient to provide a county equalization program at a figure not exceeding 35 per cent of the State minimum educational program. The combined total of this tax and the regular school levy may not exceed 10 mills.

If a County Board wishes to take advantage of this authority, it decides the extent of the county equalization program for the coming year. The county Superintendent is then required to compute the amount of benefit accruing to each school district in the county, on a "classroom unit month" basis. This computation is made by multiplying the number of school months taught by total number of classroom units.

Iowa - Ch. 109, Agricultural Land Credit Fund (S. F. 227). In order to relieve the inequitable and disproportionate burden of school taxes levied in independent school districts, \$500,000 of State money is to be earmarked annually for an agricultural land credit fund. Owners of agricultural lands (10 acres or more of unplatted land used exclusively for farm and agricultural purposes) lying within independent school districts, may apply to the County Assessor or Auditor for credit on their school taxes. The amount of the credit is to be equal to the amount of the general school fund levy in excess of 15 mills. Claims are examined by the County Board of Supervisors. Persons failing to make a claim are deemed to have waived their right to a credit for that year.

Maine - Ch. 70, Payments in Lieu of Taxes on Foreclosed State Farm Loan Lands. The Farm Lands Loan Act (R. S. Ch. 58) is amended by the addition of a section which directs the Commissioners to compensate towns or plantations for the loss of taxes on property which has been foreclosed by the State. The amount of the payments is to be determined by the State Auditor, the State Tax Assessor, and the Attorney-General. In making their determination, they are required to give consideration to: (1) the amount of income, if any, derived by the State from any lease or tenancy of the property; (2) the expenses incurred by the town in operating or maintaining highways to the property; and (3) the number of school children attending the public schools of the town or plantation, and the cost of transporting them. The total amount of the payments thus calculated may not exceed in any one year, the revenue derived from taxation on the property during the year preceding acquisition by the State.

Minnesota - Ch. 376, Aid to School Districts (S. F. 180). Whenever lands were acquired by the State within a particular school district, through operation of the rural credit system, in time to make them tax exempt during the years 1937 and 1938, the State Auditor is authorized to compute and pay over to the district the amount which would have accrued to it under the regular tax levy.

(Local Govt. cont.)

Montana - Ch. 188, County Indebtedness (S. B. 158). Counties which had a floating indebtedness in excess of two-fifths of one per cent of the taxable valuation of the county for the fiscal year 1938-1939 and were without sufficient funds to meet these debts together with necessary current expenditures during that year, are given authority to pay them either by issuing funding bonds, or by levying a special tax.

New Hampshire - Ch. 204, Payments in Lieu of Taxes on Flood Control Projects. Not to exceed \$30,000 for any one tax year may be paid out by the State Treasurer to towns and cities as recompense for taxes lost as a consequence of Federal acquisition of lands for flood control purposes. The payments are to be equivalent to the amount of taxes that would have been assessed against the land if privately owned, and they are to continue for 3 years.

New Mexico - Ch. 148, Conservancy District Financing (S. B. 133). New powers are granted to Boards of Conservancy District Directors for the purpose of allowing them to meet all requirements for cooperation with the Federal Government under the Reclamation Law. The scope of cooperative undertakings is such as to include all kinds of activity pertinent to the maintenance and operation of irrigation, drainage and auxiliary works. Districts may also become the principal or guarantor for indebtedness to the Federal Government resulting from construction costs, and they may be designated fiscal agents of the Federal Government in collecting rentals and other monies.

In districts entering into contracts with the Federal Government, the real property is divided into irrigable and non-irrigable lands for assessment purposes. Irrigable or "Class A" lands are to be levied against annually at a uniform rate per acre. Non-irrigable or "Class B" lands are to be assessed on the usual ad valorem basis.

North Carolina - Ch. 206, Tax Compromise Between State and County (H. B. 786). Heretofore, counties have been required to levy a tax of  $1\frac{1}{2}$  mills for the maintenance of the State school system (Ch. 127, Laws of 1931). A large number have been unable to meet the requirements, and the Governor and Council of State are now authorized to make adjustments and compromises which will relieve the counties of further liabilities on account of the taxes previously levied.

Ohio - Bonds to Meet Federal Aid (S.P. 48). Municipal corporations and other political subdivisions are given a general authority to participate in Federal aid heretofore or hereafter provided by Congress, and to issue bonds for the purpose of meeting any contributions which may be required.

Oklahoma - State Aid for Schools (S. B. 22). Appropriates

(Loc. Govt., cont.)

\$11,500,000 per annum for the coming biennium to aid in the operation and maintenance of the public schools. The funds appropriated are for providing primary and secondary aid and for school districts for losses due to homestead exemptions. The districts in obtaining primary and secondary aid are required to meet certain standards designed to provide a minimum program.

Pennsylvania - Act No. 385, State Aid to Schools. Temporarily suspends certain mandatory laws relating to State reimbursements for transportation, tuition, and vocational education to school districts of the fourth class and to those of the third class coterminous with townships. The Superintendent of Public Instruction, furthermore, is authorized to appoint 3 Supervisors to be assigned to the various counties at his discretion. The effect of this Act is to maintain the schedule of State payments to local districts as established and maintained prior to 1937, and to postpone the effective date of the following Acts of 1937 until the 1941-42 biennium: P. L. 2583, Sections 2 and 4; P.L. 2560, Section 7; P.L. 564, P.L. 605, Section 8; P.L. 2589, Section 1; P.L. 2548, Section 7; and P. L. 2592.

South Dakota - Ch. 53, Federal Funds for School Purposes (S.B. 86). Funds received by counties from the United States, out of income derived from land acquired under the provisions of the "Bankhead-Jones Farm Tenant Act", are to be apportioned by the County Commissioners among the several school districts having children requiring school facilities, according to the acreage of land in each.

South Dakota - Ch. 68, Appropriation for Distressed School Districts, (H. B. 261). An annual appropriation of \$150,000 is made for the next biennium for the purpose of giving financial aid to school districts. The Superintendent of Public Instruction, the Governor, the Director of Taxation, the Commissioner of School and Public Lands, and the Secretary of Finance are constituted a Committee for administering the funds, and are given authority to act upon all applications for aid.

South Dakota -69, School Districts Containing Indian Land (H.B. 212). An annual appropriation of \$12,500 is made for the next biennium, to aid school districts containing 1500 acres or more of non-taxable Indian lands. The amount received by any school district in a single year cannot exceed the equivalent of 3¢ per acre of Indian land there situated, nor can aid be granted to a district which has not in the previous year made a school levy of at least 6 mills.

Texas - Payments in Lieu of Taxes (S.B. 89). Provides for State subventions to 10 Texas counties in which the Federal

(Local Govt. cont.)

Government has made heavy land purchases, for the purpose of reimbursing them for their resultant tax losses. The responsibility of determining the amount and of locating Federal holdings in each county is left to the local Tax Collector; and the local Board of Equalization is given the duty of making the valuations and of revoking the sum of taxes lost to the county and its subdivisions. Should the Federal Government itself reimburse any of the counties, State reimbursements are rescinded.

Utah - Ch. 81, Uniform School Fund (S.B. 138). Allocations of revenue to the Uniform School Fund and the methods of distributing the Fund are changed by amendments to the 1937 Act (Ch.82). As amended, the law provides that the income from State school fund investments and from lands owned by the State as a result of foreclosures on school fund loans; the income from lands acquired by the State through forfeiture or escheat; unclaimed shares and dividends of any Utah corporation; and certain other revenues are to be distributed among the common schools. Likewise, 50 per cent of the revenues derived from grazing fees and mineral leases on tax reverted lands, as well as of the money received from the United States under the "Leasing Act" (41 Stat. 450), are allocated to common schools; while the remaining 50 per cent goes to State institutions of higher learning.

In distributing funds to the common schools, \$5000 is first earmarked for investigating special or unequal conditions among districts. Then an additional 15 per cent (not to exceed \$75,000) of the fund is set aside for the use of the State Board of Education for the purpose of equalizing advantages and improving educational practices not otherwise cared for. The balance of the fund is to be divided among the common schools in such a way as to insure an income to each school of \$86.00 per student in average daily attendance without making it necessary for the district to levy in excess of 10 mills property tax. Distribution must also be made in such a way as to insure that each district will receive from the fund a minimum of \$1.00 per student when there is \$500,000 to distribute. If the amount to be distributed is more or less than \$500,000, the minimum will vary according to the same ratio.

Wisconsin - Ch. 212, Disposition of Swamp Land Funds (A. B. 431). Money obtained from the sale of swamp and overflowed lands granted to the State by the Federal Government is no longer to be used for reclamation purposes, but is instead to be turned over to the normal school fund.

Wyoming - Ch. 87, County Budget Act (S. F. 96). A uniform budget and financial procedure is established for use in all counties of the State. The Board of County Commissioners may either perform the budget-making functions themselves or designate the County Collector, the County Treasurer and the County purchasing

(Local Govt. cont.)

agent to act in their stead. The budget document is to consist of 3 parts: (1) the budget message and the general budget summary; (2) the detailed budget estimates of both expenditures and revenues; (3) complete drafts of the resolutions or motions required to give legal sanction to the plan proposed. Preparation of the budget is to be complete by the first Monday in November, and a public hearing on it is held on the first Monday of February next ensuing. Hereafter expenditures of county funds are to be strictly limited to the appropriations under the authority of the budget. Any contract, verbal or written, made in violation of any provision of the Act by an official or employee of the county is punishable as a misdemeanor.

Should there be unexpected emergencies, epidemics, floods, fires, or other catastrophies making additional appropriations necessary, the County Board may upon a two-thirds vote obtain the money from temporary loans or a tax levy not exceeding 2 mills, so long as the total levy does not exceed statutory or constitutional limitations.

### Municipal Bankruptcy

The Federal Bankruptcy Act allows municipalities to refund their indebtedness and make compositions with creditors under certain circumstances. Loans are also made available from the Reconstruction Finance Corporation. The following States authorized certain political subdivisions to take advantage of the Federal Law (the affected subdivisions are enumerated for each State);

Arkansas - Act No. 69 (S. B. 15). Improvement districts and municipalities (counties not specifically mentioned).

California - Ch. 1017 (S.B. 930). Improvement districts.

Colorado - Ch. 124 (S. B. 84). Irrigation and drainage districts.

Colorado - Ch. 164 (S.B. 325). Improvement districts in cities and towns.

Idaho - Ch. 110 (S.B. 109). All taxing districts.

Michigan - Act No. 72. Taxing agencies and instrumentalities of the State.

Montana - Ch. 114 (S.B. 146). Cities and towns.

North Carolina - Ch. 203 (H.B. 707). All taxing districts.

Oregon - Ch. 109 (H. B. 133). Irrigation and drainage districts.

South Carolina - Ch. 40. All governmental subdivisions.

### New England Hurricane

Cities, towns or districts which have suffered extra-

(New England Hurricane , cont.)

ordinary damage to highways, bridges and other public works as a result of the 1938 New England hurricane, may issue bonds or notes for the purpose of raising money to make needed repairs in excess of the statutory limitations on indebtedness in:

Massachusetts - Ch. 63. Must be paid off in 10 years.

New Hampshire - Ch. 9. Must be paid off in 15 years.

Special appropriations were made for cleaning up damage caused by the hurricane in:

Connecticut - Sp. Act No. 3. Additional fire protection and rehabilitation \$350,000.

New Hampshire - Ch. 137. Aid to townships of \$5,000,000.

New Hampshire - Ch. 254. Additional fire protection \$100,000.

Vermont - Temp. No. 218, Aid to local government \$3,500,000. Authorizes issuing of \$3,000,000 in temporary coupon notes.

#### Payments in Lieu of Taxes - Federal

Alabama - Gov's. No. 65 (H.B. 57). United States property made taxable as other property, to full extent of State's power.

Arkansas - Act No. 361 (S.B. 538). Counties authorized to make agreements with the Federal Government for payments in lieu of taxes on rural rehabilitation projects.

Florida - H. M. No. 3 (P. 1670). Congress memorialized to provide payments in lieu of taxes in counties where large tracts of land have been purchased by the Federal Government.

Georgia - Act No. 203 (p. 95). Property of Federal agencies used in "proprietary" enterprises is subject to ad valorem taxation, to the same extent as private corporations (except as limited by the Constitution).

Georgia - Act No. 202 (p. 103). Authorizes collection of occupation tax on Federal Corporations engaged in the manufacture and distribution of electricity.

Oklahoma - Ch. 66, Art. 27 (H.B. 622). Counties authorized to negotiate with the Federal Government for payments in lieu of taxes on resettlement projects.

Montana - Ch. 58 and Ch. 59 (H.B. 345 and H.B. 346, respectively). The State Board of Equalization, acting for the State, and Boards of County Commissioners, on behalf of counties or their subdivisions, are authorized to negotiate with the Federal Government for payments in lieu of taxes on land used in Federal projects.

(Pay. in Lieu of Taxes, cont.)

New York - Ch. 823. Counties authorized to negotiate with the Federal Government for payments in lieu of taxes on land used in Federal projects.

North Carolina - Ch. 236 (H.B. 903). Legislative Commission appointed to seek relief from Congress for Hyde County, on account of Federal land purchases there.

### State Revenue Acts

California - Ch. 154, Revenue and Taxation Code (A. B. 1843). All the laws relating to taxation and the raising of revenue are revised and consolidated into a new revenue and taxation code.

Oklahoma - Ch. 66, Act 2 (H.B. 243). A uniform system of procedures and remedies is established for the administration of all State Taxes. The enforcement of the Act and the authority to promulgate rules and regulations with respect to it is delegated to the State Tax Commission.

Wisconsin - Ch. 412, Board of Tax Appeals (A. B. 689). Creates a State Board of Appeals of 3 members, appointed by the Governor with the consent of the Senate. This Board has final administrative authority for hearing and determining all questions of law and fact arising under the tax laws of the State; and no matter within its competence may be taken to the courts without having first been heard by it.

## PUBLIC LANDS

### Exchanges

Minnesota - Ch. 343, Acceptance of Land In Settlement of Claims (H.F. 1596). Upon approval of the Conservation Commissioner, the State will accept land in settlement of claims it has for damages to its property, resulting from the maintenance of dams in the International boundary waters at International Falls and Kettle Falls. Land so accepted is to be used for State Forests.

Minnesota - Ch. 382, Exchange Commission (S.F. 697). The Governor, the Attorney-General, and the State Auditor are constituted a Land Exchange Commission, to supervise the exchange of State-owned lands for other lands of equal value and kind, for the purpose of consolidating State holdings. In making the exchanges, all mineral rights are to be reserved in the State.

(Public Lands, cont.)

Provision is made for the filing of proposals of exchange by owners of land and for the consideration of these applications by the Commission at a public meeting. The meeting is to be preceeded by publication of 15 days' notice and a list of all lands considered for exchange.

Montana - Ch. 106, School District Lands (H.F. 272). School District Boards of Trustees are authorized to sell or exchange property which is about to be abandoned as unsuitable for school purposes.

North Dakota - Ch. 216, Indian Reservations (H. B. 142). State agencies and Boards of County Commissioners may exchange tracts of land located on Indian Reservations not a part of the original grant land, for lands of like character and value belonging to the United States. These exchanges may be made without giving the usual notice required by statute.

Oregon - Ch. 243, Grazing (S.B. 143). Grazing lands owned by the State or by the several counties may be exchanged with, or sold to, Federal and public agencies.

South Dakota - Ch. 23, Isolated Tracts (H. B. 70). Boards of County Commissioners are authorized to exchange isolated tracts and scattered sections of county land for lands belonging to the State or the United States, upon a value for value basis. The deed requirements of existing laws are to be followed, except that advertising and notice of appraisalment are eliminated.

Management and Disposition

Alabama - Gov's No. 581, "Management of Public Lands (H. B. 851). Supervision of the management and utilization of State school lands and State swamp and overflowed lands is vested in the Director of Conservation. He is authorized to supervise and inaugurate sound forestry practices, to arrange for the sale of timber and materials to the highest bidder at public auction, and, with the consent of the Governor and the Superintendent of Education, to make exchanges for other lands of equal value.

Arizona - Ch. 87, Prospecting for Oil on State Lands (H.B. 80). The State Land Department is authorized to issue permits to prospect or explore for oil and gas on State lands, and to grant leases for the exploitation of State lands on which oil, gas, or other hydrocarbons are found in paying quantities. Reasonable rules and regulations governing the leasing transactions, the actual process of drilling and developing wells, and the production, transportation and storage of oil and gas are all under Departmental supervision.

(Public Lands, cont.)

Arizona - Proposed Constitutional Amendment, State Lands (H.C.R. 3). It is proposed to amend the State Constitution (Sec. 3, Art. 10) so as to permit the making of 10-year leases on State lands for grazing and agricultural purposes, and the making of 20-year leases for mineral purposes. At present the Constitution limits the leasing period to 5 years.

Arkansas - Act No. 331, Establishing a State Land Policy (S. B. 312, sub. for S. B. 109). State owned lands may now be classified by the Land Use Committee of the State Planning Board into 3 groups: (1) lands to be retained in public ownership, (2) lands suitable for agricultural settlement, and (3) lands to be returned to private ownership. The latter class is sub-classified into lands to be returned to private ownership by sale and those to be returned by donation. (The donation procedure in Arkansas is much the same as the Federal homestead system).

The classifying body can recommend which State agency should administer lands to be retained in public ownership, but the agency may decline to accept them. Lands classified as suitable for agricultural settlement include those that can be developed into new agricultural communities by clearing and drainage operations. This class is apparently intended to be transferred to the Federal Government for development. Lands classified as suitable for return to private ownership by sale may be appraised and sold by the Commissioner of State Lands, although he is forbidden to sell to landowners wishing to enlarge their farms above a family-sized unit. The State Land Commissioner, with the advice of the Land Use Committee, is empowered to prescribe rules and regulations governing the donation of lands, in order to avoid isolated settlement, settlement on lands unsuited to agriculture, and settlement under conditions which would obviously preclude successful farming or would entail undue hardship to the donee. The Commissioner is forbidden to permit the donation of tracts either greater or less than a family-sized farm.

Arkansas - Act No. 337, Refund of Purchase or Donation Price of State Lands Where Title Fails (S.B. 121). The Commissioner of State Lands is authorized to refund amounts received by the State for tax-delinquent lands where the title fails, no refund to exceed \$160 to one person. Proof must be submitted that no merchantable timber has been removed and claims previously filed with the legislature are ruled out.

Indiana - Ch. 153, Tax Title Lands (H. 150). The Department of Public Works is authorized to designate as "conservation land" any land outside incorporated cities or towns which remain unsold after having been offered for sale for delinquent taxes for 2 successive years. An additional 2-year period is allowed for redemption, to the owner, occupant, or other

(Public Lands, cont.)

persons of interest. If not redeemed within that period, a fee simple title passes to the State, and suits to test the validity of the title must be filed within one year. Under previous laws, neither the State nor its subdivisions acquired title to chronically delinquent lands.

Lands so acquired by the State as conservation lands may be sold, exchanged, leased or otherwise disposed of in such a manner as will best accomplish their proper utilization and conservation.

Minnesota - Ch. 320, Classification of Tax Reverted Lands (H.B. 508). All tax reverted land becoming the absolute property of the State, situated within any conservation or reforestation area, must be classified by the County Board (subject to the approval of the State Conservation Commission) as to agricultural and non-agricultural uses.

Land classified for agricultural uses is then to be appraised by the County Board, merchantable timber being appraised separately and put up at public auction (with approval by the Conservation Commission) in parcels of not more than 160 acres each. The terms of sale are that all minerals be reserved to the State and that the purchase price be not less than the appraised value. Pending sale under the required conditions, the land may be leased on such terms as the County Board will agree to.

Lands classified as non-agricultural are to be reserved by the State, and dedicated to conservation purposes.

Montana - Ch. 8, Public Domain Leases (H.B. 76). An Act of Congress approved June 25, 1938, providing for the leasing of public lands for grazing and agricultural purposes on a 10-year basis instead of on a 5-year basis as before, is officially accepted by the State of Montana.

Montana - Ch. 65, State Land Leases (H. R. 237). Statutes relating to the leasing of State-owned lands are amended so as to permit agricultural and grazing leases to run for a period of 10 years with an optional renewal period not to exceed 10 years additional.

Montana - Ch. 140, Public Land Contracts (H. R. 157 Sub). The holder of certificates of purchase of State lands under which any installments are delinquent, is to be allowed to pay such installments without penalties or interest up to December 1, 1940.

Montana - Ch. 141, Default on Certificates of Purchase (Sub. H.B. 158). Whenever a certificate of purchase of State land embracing lands received from the United States through the enabling Acts and acquired by the State through its farm mortgage program, has become subject to cancellation through having been in default 6 years or less, the owner of the certificate or his successors

(Public Lands, cont.)

in title may apply to the State Board of Land Commissioners for conversion of the original purchase contract into a 33-year amortization.

Montana - Ch. 193, Management of Tax Reverted Lands (S.B. 199). Statutes relating to the sale or lease of tax reverted lands are amended so as to permit County Commissioners in making leases to include clauses relative to land use practices in accordance with the advice of the County Agricultural Planning Committee.

North Dakota - Ch. 237, Leasing County Tax Deed Property (H.B. 99). County Commissioners are empowered to lease all tax deed land which can not be sold as provided by law. Such leases may not run for over 5 years, and are terminated at any time by sale of the land. The County Commissioners have discretionary power, however, to lease grazing land for periods up to 10 years.

Not more than 10 per cent of the income from leases may be used to defray administrative cost. Not less than 90 per cent of the total revenue, including any Federal payments, must be turned over to the County Treasurer for annual distribution and apportionment to the several tax districts.

North Dakota - Ch. 218, School Land Leases (H. B. 126). The maximum term for leases of common school lands and other State lands having an appraised value of less than \$10.00 per acre, is increased from 5 years to 10 years.

Ohio - Tax Title Lands (H. B. 478). The land classification features of this Act are similar to those of the Indiana tax title law (supra). This law differs from the Indiana enactment, however, in that land selected for acquisition by the State must have at least 4 years unpaid taxes charged against it or must already have been forfeited for taxes, and no additional redemption period is allowed after the State takes title. Furthermore, this Act requires that 25 per cent of the gross income to the State from forest products produced on the land be applied to the payment of back taxes.

The Board of Control of the Experiment Station and the Conservation and Natural Resources Commission are the Ohio agencies designated to do the selecting of land to be acquired.

Oklahoma - Ch. 66, Act 31, Management of Land Purchased at Resale (H.B. 121). Real estate purchased at resale in the name of the county may be leased, rented or otherwise used to the best interest of the county under the management of the Board of County Commissioners. The Board is authorized to collect rents, enforce ejectments, and make repairs or replacements while the title remains in the county. Neglect of the

(Public Lands, cont.)

County Commissioners to acquire possession of such property constitutes malfeasance in office and any County Commissioner upon conviction thereof shall be removed from office.

Oregon - Ch. 282, Development of Tax Reverted Lands (H. B. 484). Counties are authorized to reseed tax reverted lands to forage grasses, and to cooperate in this activity with the United States, the State of Oregon, other counties and timber owners within the county.

South Dakota - Ch. 25, County Land Management (H. B. 194). The declared purpose of this Act is to establish a sound policy of managing and disposing of county owned lands so as to conserve the land resources, bring in a maximum long-term revenue, and encourage the stable operation of farms and ranches.

Boards of County Commissioners may divide all county owned lands into classes I and II, according to the method of leasing and sale to be followed. Procedure for the sale and lease of Class I lands at public auction is provided. Class II lands may not be sold until reclassified, and are to be leased only under special rules prescribed by the Commissioners for the conservation and protection of forage resources. To this end, the grazing practices may be regulated so as to meet variable range conditions, and the rental charge adjusted each year accordingly. Violation of the prescribed regulations is cause for termination of the lease. The law also provides for exchanges of isolated county lands for either public or private lands, and for the apportionment of all income from county owned lands.

The Board of County Commissioners may grant permits for the erection of corrals, fences and water facilities on leased land, provided the county becomes in no way liable for materials or labor. The lessee remains owner of the improvements, and he may remove those that are physically capable of removal, within 90 days of the termination of his lease. Non-removable improvements may be sold within the same period to a new lessee or to the purchaser of the land. It is the duty of the Board to supervise this sale of improvements and to withhold new lease or sale contracts until settlement for improvements has been made. In case of disagreement among the parties, a Board of Appraisal is to be appointed by the County Commissioners to make an inspection and report.

Washington - Ch. 201, County Homestead Lands (H. B. 382). Provides a plan of homestead settlement on certain county-owned lands, designated by the County Commissioners for that purposes. Any citizen of the United States, who has attained his majority or who is head of a family, may apply to settle on an available tract of not more than 80 acres in size. If his application is approved by the County Commissioners he is given a certificate of entry. Before obtaining final conveyance of title the entry-

(Public Lands, cont.)

man must live on the property for 5 years and must have constructed a house and otherwise made improvements to the extent of at least \$500.00.

Wyoming - S.J.R. 5, Settlement of Public Domain. The President of the United States is memorialized to amend the executive orders withdrawing from settlement all vacant and unreserved public lands in 12 western States. It is argued that large areas of arable land adjacent to existing livestock enterprises and suitable for the production of needed forage crops, could be used to rehabilitate and provide homes for many people suffering from the effects of droughts and dust storms.

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Parks, Forests and Wildlife Areas

Arizona - Ch. 78, Acquisition and Supervision of Public Parks (H.P. 72). The governing body of any county or municipality is authorized to acquire and maintain areas of land for recreational or park uses. Property already owned may be dedicated to that purpose, or property may be in the future acquired by purchase, lease, gift or grant from the United States or other governmental agencies. This property need not be within the borders of the governmental subdivisions. Cooperative agreements with the governing body of another county or municipality within or without the State may be entered into for development or maintenance purposes.

California - Res. Ch. 120, Sale or Lease of Park Lands (S.C. Amend. 33). Proposes to amend the State Constitution so that the State Land Commission, with the consent of the State Park Commission may execute leases, easements or contracts for the extraction of oil and gas on lands within the State park system.

Connecticut - Ch. 237, Town Forests (H.B. 147). Towns are authorized to establish forests for the purpose of raising timber; protecting water supplies, and providing opportunities for recreation or employment of relief labor. Management and care of the forest is to be delegated to a town forest commission consisting of 3 members appointed by the governing body. Planting stock may be obtained from the State Forester.

Delaware - Forest Land Leases (S.B. 61). The State Forestry Commission may lease portions of any State forest lands under its control, to public service companies or organizations and to public or private agencies, for periods not to exceed 10 years.

(Public Lands, cont.)

Michigan - Act No. 126, Removal of Products. The unauthorized removal of forest products, minerals, or improvements from State lands (including terminated lands) is made a misdemeanor punishable by fine or imprisonment. If the violation is an unwitting one, damages may be collected in lieu of any other punishment. If wilful, damages may be assessed in addition to the criminal penalty.

New Mexico - Ch. 223, State Wildlife Refuges (H. B. 33). The State Game Commission is authorized, with the consent of the State Board of Finance, to acquire land for the purpose of developing various types of wildlife refuges. Any property rights so acquired by the State shall revert to the grantor if and when the use for which it was acquired has been abandoned for three years or otherwise relinquished.

Oregon - Ch. 478, State and County Forests (H.B. 517). The State Board of Forestry is authorized to acquire lands for the development of State forests, by purchase, donation or exchange. In counties where Forest Land Classification Committees have been appointed, lands may not be acquired unless they have been classified for forest use. Ten per cent of the income from the acquired lands is to be appropriated to the State forestry development fund. The balance is returned to the counties in which the land is situated. The Board is also authorized to cooperate in the establishment of county-owned forests.

Oregon - Ch. 525, Fire Patrol Fee on County Lands. Counties are required to pay a fire patrol fee on county-owned timber lands equivalent to that paid by private owners.

## TAXATION OF REAL PROPERTY

### Assessment and Levy

Alabama - Governor's No. 143 (Amended by Governor's No. 531), County Boards of Equalization (S. B. 14). County Boards of Equalization composed of 3 members serving 4-year terms, are established in every county of the State. Members are appointed by the State Commissioner of Revenue, with the approval of the Governor, from nominations submitted respectively by: (1) the County governing body, (2) the County Board of Education, and (3) incorporated municipalities within the county.

The general function of the Boards is yearly to inspect, review and revise the value of all property returned to, or listed with the tax assessor.

Maine - Ch. 280, State Property Assessment Districts. The

(Taxation of Real Prop. cont.)

property assessment laws are supplemented by new sections which authorize the State tax assessor to divide the State into not more than 6 property assessment districts, and to rearrange the districts from time to time at his discretion. In no case may a county be split.

In order to bring about a more uniform tax assessment procedure, it is the duty of the State assessor to prescribe the form of blanks, reports, abstracts and other records. The appointment of supervisors and assistants for each of the assessment districts is left to him, and he may prescribe their duties, fix their compensation, and transfer, abolish or consolidate positions.

North Carolina - Ch. 310, Tax Administration Code (H. B. 45). Laws pertaining to the taxation of real and personal property are revised and collected into a single code, which prescribes the structural organization of taxing agencies at both State and local levels, as well as the procedural aspects of tax assessment and collection.

The State Board of Assessment, consisting of the Governor, the Commissioner of Revenue, the Public Utilities Commissioner, the Attorney-General, and the Director of the Local Government Commission, exercises supervision over valuation and taxation throughout the State, including counties and municipalities. It also acts as a State Board of Review.

The Act provides, among other things, that property shall be assessed at true market value (not forced sale value). The declared policy is to encourage conservation and beautification of homes and roadsides, and assessors are instructed to make no increase in valuation as a result of the property owner's enterprise in landscaping for non-commercial purposes, repainting buildings, protecting forests from fire, or the planting of forest trees on vacant lands (for 10 years after planting).

North Dakota - Ch. 225, Abatement of Excessive Tax Assessments (S.B. 41). Taxes levied upon property valued by local assessors are rescinded to the extent that they are based on valuations in excess of true monetary value. Property owners are allowed to apply to the Board of County Commissioners for relief from excessive valuation at any time within a year after the assessment becomes final. Failure of the property owner to appear before the Board does not prevent him from having the full merit of his petition heard and determined. If, after this hearing, he is still dissatisfied, he may appeal within 30 days to the district court and thence to the supreme court.

North Dakota - Ch. 226, Court Action to Determine Fair Tax on Property (H. B. 216). A tax payer whose property has been or is in process of being valued for taxation by the State

## (Taxation of Real Prop., cont.)

Board of Equalization, is permitted to bring an action for relief at law or in equity, against the State and any or all of its subdivisions which may be concerned. No action may, however, be brought hereunder against the State to secure refund of taxes already paid under protest.

Ohio - Special Assessment Review Boards (S.B. 235). Every county having one or more taxing units whose funded indebtedness, including delinquent interest, is equal to 14 per cent of the aggregate assessed valuation of real property therein, is authorized to establish a County Board of Special Assessment Review of 3 electors appointed by the County Commissioners. Board functions include the receiving, directing, hearing and determination of any proceeding challenging the lawfulness of a special assessment levied by any taxing unit in the county and the negotiation and approval of agreements between interested parties relating to the settlement of special assessments. The Act provides in detail, for the filing of complaints, for the giving of notice to parties of interest, for the calling of witnesses, and the conducting of hearings.

Pennsylvania - Acts Nos. 74 and 127, Valuation of Property. Act No. 74 amends the general County Assessment Law (1933 P. L. 853, Sec. 402) by authorizing county assessors to consider selling price in establishing "actual value"; but the selling price is not to be controlling, being subject to revision upward or downward to accomplish equalization with other similar property in the taxing district. Act No. 127 is an identical amendment to the assessment law for third class cities (1931 P.O. 932).

Washington - Ch. 2, Tax Levy Limitation Initiative Measure No. 129. The aggregate annual levy of taxes on real and personal property is limited to 40 mills on the dollar of assessed valuation, the latter being 50 per cent of the true and fair value of the property.

West Virginia - Ch. 131, County Wide Levy for District Debt Service (S. B. 3). Because of the loss of levying power through the impounding of debt levies in school and road districts, voters of a county may at a county-wide election provide for the payment of these road and school district debts incurred prior to the adoption of the tax limitation amendment (Art. 10, Sec. 1, W. Va. Constitution, amended November, 1932) from a county-wide levy.

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Collection, Reversion and Redemption

Arkansas - Act No. 56, Collection of Road District Assess-

(Col. Rever. and Redemp. cent.)

ments (S.B. 34). Assessments of road improvement districts become delinquent and subject to a 25 per cent penalty when not paid within the time fixed for the payment of county taxes. Collection is enforced by an in rem Chancery Court foreclosure proceeding which may include all or any part of the delinquent lands within the district in a single action. Original owners are allowed a 1-year redemption period after the foreclosure sale.

Arkansas - Act No.100, Relief for Land Owners in Improvement Districts (H.B. 285). Bonds issued by an improvement district may now be accepted, at face value, (1) in payment of current or delinquent assessments and (2) as consideration for the redemption or repurchase of lands previously taken over by the district.

Arkansas - Act No. 126, Foreclosure of Improvement District Assessments on Lands Forfeited to the State (S.B. 27). Improvement districts may proceed with foreclosure on their assessments, notwithstanding the fact that the land may already have been forfeited to the State for non-payment of regular taxes. Purchasers at delinquent assessment sales hold the land subject to the superior rights of the State, but may, nevertheless, take possession without accountability for rent or damages until the State exercises its paramount authority. At the end of the redemption period, tax purchasers succeed to all rights of the former owner to divest the State of its interests.

Arkansas - Act No. 329, Foreclosure of Improvement District Assessments on Lands Forfeited to the State (S. B. 315). The provisions of this Act are similar to those of Act No. 126, except that former sales are validated and provision is made that receivers appointed by the Chancery Court may use income from the foreclosed lands to redeem them from the State.

Colorado - Ch. 144, Issuance of Tax Deeds to Counties (H. B. 200). All parcels of real estate (outside incorporated areas) for which a county holds tax sale certificates in any one year may be included in a single request for a tax deed.

Once conveyance to the county is completed, the county assessor is required to assess the land and report to the County Board the amount of general State, county and school taxes that would be levied against each parcel if it were in private ownership. The Board may then execute grazing, mining or oil leases on the land at "the best cash rental obtainable" or sell it to the highest bidder (but not for less than one-third the appraised value as determined for that year). Income from leases and sales is to be treated as though received from taxation.

Colorado - Ch. 145, Tax Deeds (H.B. 1082). Any one owning

(Col. Rever. and Redempt. cont.)

certificates of sale for a number of tracts of land may include all of them (provided not more than 25) in a single application for a tax deed, even though each tract was sold separately at the tax sale or sales. A single notice of application for tax deed is likewise sufficient.

Iowa - Ch. 214, State Tax Titles (S. F. 124). No action may be maintained to contest the validity of a tax sale or deed issued pursuant to a sale held prior to January 1, 1936, unless the owner of the land was incompetent at the time of the sale.

Michigan - Acts Nos. 244 and 329, Tax Land Sales (S.B. 298 and S.B. 407). The Act governing the disposition of tax reverted lands (Act 155, Laws 1937) is amended: (1) by liberalizing the opportunity of former owners to redeem tax reverted land; (2) to permit political subdivisions to bid in lands to be dedicated to a public purpose; and (3) to allow the State to transfer to local governments without charge, lands already acquired by it, for local dedication to a public purpose. Whether the land be bought at a tax sale or obtained through transfer from the State, title will again revert to the State as soon as the local Government has finished using it for a public purpose.

Minnesota - Ch. 34, State Tax Titles (H.F. 1573). A 1-year limitation is placed upon the filing of claims adverse to the State's title to tax reverted lands, except where the claim is based on jurisdictional difficulties in the tax proceedings. Persons attacking the validity of the State's title must deposit with the court, the amount of taxes and penalties against the land, pending final disposition.

The State is also authorized to bring a blanket action to quiet title on lands claimed to have been absolutely forfeited to it on account of non-payment of taxes. The names of the defendant landowners must be stated in the complaint, and the summons must be personally served upon those residing within the State, if they can be found. Service in all other cases is obtained by publication.

Missouri - Page 850, Tax Sales (S. B. 311). The tax sale statutes provide that lands twice offered at regular delinquent tax sales, and twice failing to attract a bid high enough to clear up the delinquency, are to be sold to the highest bidder at the next annual sale. The redemption period formerly allowed after this third sale has been eliminated by the present enactment and the purchaser gets a deed at once. Another new provision allows county courts and the Mayor of St. Louis to appoint representatives to bid at this third sale, in order to protect their respective tax interests, which might otherwise be lost through inadequate bids. These representatives act as trustees for the county or the city as the case may be.

(Col. Rever. and Redemp. cont.)

Nevada - Ch. 144, Tax Sale Lands in Irrigation Districts (S. B. 59). Lands bought in by an irrigation district at a delinquent tax sale may be conveyed to any purchaser upon terms agreed to by unanimous vote of the Board of Directors. The water right appurtenant to the acquired land may also be disposed of if the available water supply is adequate for irrigating the remaining non-delinquent land.

New Mexico - Ch. 171, Easement Exceptions (S. B. 25). The State tax sale certificate and tax deed statutes are amended so as to make them subject to easements for telephone, telegraph, transmission or pipe lines, and for irrigation or drainage ditches, and for roads.

New York - Ch. 692, Uniform Delinquent Tax Enforcement Act. The local legislative body of any taxing district in the State (including counties) may, by resolution, adopt the following procedure for collecting delinquent taxes, and may again reject it after at least one year's trial.

This procedure is outlined in 2 parts. The first (designated in the Act as Title II) provides that the owner of a tax lien may, by registered mail, notify the record owner of the property and any mortgagees, of the approaching expiration of the redemption period; but this notice must not be sent out more than 3 months in advance. If redemption is not made within the time specified in the law, then the owner of the lien has the option of completing the purchase and taking a conveyance of the lands, or of foreclosing his lien as in an action to foreclose a mortgage.

The second feature of the Act (Title III) allows taxing districts owning tax liens which have been due for at least 4 years, to foreclose them by an action in rem. An annual list of delinquent tax liens meeting this requirement is prepared and filed in the office of the clerk of the county in which the district is located. This is followed by the publication of a notice of foreclosure. Any party of interest is entitled either to redeem the land by paying the amount due, or to file an answer in court carrying the absolute right to action separate from the in rem proceedings on the list as a whole. As to those parcels of land upon which an answer is filed, the court has full power to determine and enforce the priorities, rights and claims of all the parties. If it finds that one of the answering parties has an equitable right to be satisfied, that particular parcel will be sold at auction. As to those parcels remaining unredeemed and uncontested, the final judgment of the court awards possession to the taxing district, and directs the tax collector to execute a deed to the district.

North Dakota - Ch. 238, Redemption of County Tax Deed Property (S. B. 51). Real estate forfeited to the county on ac-

(Col. Rever. & Redemp. cent.)

count of tax delinquency is redeemable by former owners as long as the title remains in the county. Redemption is effectuated by payment of the "amount that would have been required had no tax deed been issued," plus 4 per cent interest. In computing the amount necessary to effect the redemption, allowance is to be made for any reductions or other tax adjustments provided from time to time for encouraging and facilitating tax payments. This right of redemption in no way affects existing rights of the county to resell tax deed lands.

If the County Board is willing, the former owner may also reacquire his property on an installment plan. This provides for a down payment of 25 per cent and the balance in 3 annual installments at 4 per cent interest. Failure to meet any payment entitles the County Board to declare the deed cancelled.

North Dakota - Ch. 239, Suspension of Tax Lien on State Acquired Lands (S.B. 258). Statutory remedies for the enforcement of tax liens on lands acquired by the State treasurer as trustee for the State of North Dakota, in connection with the foreclosure of the Bank of North Dakota mortgage bonds, are wholly suspended, unless the lands be resold and a down payment is made of not less than 20 per cent.

When the income derived by the State from a particular tract is sufficient to pay the original amounts of the general taxes upon which outstanding liens or certificates of title are based, it must be so applied and must be accepted by the county as full payment.

North Dakota - Ch. 240, Tax Sale Certificates (H. B. 185). Statutes governing the conduct of tax sales are amended so as to eliminate the issuance of a tax sale certificate when a county is the purchaser of the forfeited land. Proper notations made by the county auditor upon his records have the effect of conveying to the county all the rights, interests and title, which are regularly conveyed by a tax sale certificate.

Oregon - Ch. 229, Taxes on Foreclosed School Fund Lands. Counties are required to cancel unpaid taxes levied upon lands covered by a mortgage given to secure a loan from the irreducible school fund whenever the State Board acquires title through either a deed in liquidation of the debt or foreclosure. Counties have the right to buy such lands within one year of the date of the deed to the State, upon payment to the State of the amount of its investment. The Act does not apply to irrigation or drainage districts tax liens which had their inception prior to the lien of the State.

Oregon - Ch. 485, Tax Reversion Procedure (S. B. 349). This law sets forth the complete procedure for foreclosing delinquent tax liens and provides for the repeal of inconsistent

legislation. Real property is made subject to foreclosure for delinquent taxes whenever 3 years have elapsed from the earliest date of delinquency. One general foreclosure proceeding is instituted by the tax collector, with the district attorney's assistance and under the general supervision of the State Tax Commission. Service of notice by 4 weeks' publication is provided for. After an opportunity for the filing of an answer to the petition, the court holds a hearing and renders judgment decreeing that the tax liens are foreclosed and that the several properties are sold to the county. A year from the date of this decree is allowed for redemption; and the former owner may occupy the land during that period. Just prior to the expiration of the redemption period, the tax collector publishes a notice that all properties not redeemed at the end of the period will be deeded to the county.

Pennsylvania - Act No. 19, Tax Titles. The provisions of the "Act providing a method of establishing title to land acquired at a sale for unpaid taxes or municipal claims" (1919 P. L. 180 Secs. 1, 2, and 4) are extended to include land acquired at county treasurers' sales for unpaid taxes. The procedure extended hereby includes: (a) petition by purchaser to court of common pleas; (b) issuance and service of rule by the court to possible adverse claimants to show cause why purchaser's title should not be established; (c) hearing for appearance and answer to rule; (d) establishment of purchaser's title in the event no adverse claimants appear to start proceedings to establish their title.

Pennsylvania - Act No. 14, Adjournment of Tax Sales. Authorizes county treasurers, in all except first class counties, with the approval of the Board of County Commissioners or the Court of Common Pleas, to adjourn or readjourn all tax sales on lands for nonpayments of taxes to a time not later than the first Monday of August, 1939. (First class counties are those having 1,500,000 inhabitants or over).

Pennsylvania - Act No. 276, Delinquent Tax Sales. The "Delinquent Tax Sales Act of 1931" (P. L. 280) is amended by: (1) extending its provisions to include "institution district taxes;" (2) restricting the revival, establishment, or reestablishment of certain tax liens against real estate transferred to any bona fide purchaser, (3) establishing a procedure to be followed by county treasurers in selling tax delinquent ("seated") lands; (4) requiring sales to be made within 5 years of the time for return on lien filing; (5) allowing continued paying of delinquent taxes by installment, and (6) reducing to 2 years the redemption period for real estate hereafter purchased by the County Commissioners at treasurer's sale. (Seated land is land "occupied, cultivated, improved, reclaimed, farmed, or used as a place of residence.")

(Col. Rever. & Redemp. cont.)

Rhode Island - Ch. 695, Collection of Taxes The tax collection laws are amended so as to change the redemption procedure in the following ways: (1) the life of the tax lien is increased from 2 to 3 years; (2) the tax collector is required to issue a deed within 30 days after the date of the tax sale; (3) the penalty chargeable to a redeeming landowner is reduced from 15 to 10 per cent if the redemption takes place within 6 months, but after that an additional one per cent month is charged; (4) tax sale purchasers may pay subsequent taxes prior to the expiration of the redemption period, such payments being added to the redemption price; (5) real estate sold to the town or city continues to be subject to tax levies instead of being exempt as before, and these levies are added to previous amounts, the whole to be paid when land is redeemed or purchased.

Tennessee - Ch. 126, Settlement of Liens and Insolvent Property. Property subject to tax liens and to special assessments and improvement district liens, securing obligations in excess of the amount for which the property can be sold to a private purchaser at a tax sale, is defined as "insolvent property." When insolvent property is located within an incorporated municipality, the municipality and the county within which the property is located are authorized to cooperate in the settlement of the liens through the appointment of a Board for the settlement of liens on insolvent property. This Board consists of the county trustee of the county, and the director of finance or equivalent official of the municipality. Settlements are brought about by application of the property owner to the Board. If the Board is of the opinion that the property is actually "insolvent," it determines the amount of money which will be acceptable in full settlement of the liens---in no case to be less than the amount for which the property could be sold to private purchaser. Final action is taken on the settlement by the legislative body of the municipality.

Utah - Ch. 101, Amended Tax Sale Procedure (S. B. 108). Substantial changes are made in the procedure for collecting delinquent real estate taxes. The date of publication by the county treasurer of the delinquent tax list is delayed from the 15th to the 20th of December. A preliminary sale is held on the 10th day of January, after which time all real estate subject to lien for delinquent taxes is deemed to have been sold to the county. The redemption period remains approximately 4 years, after which the final public auction sale is held. Land not sold at this sale is then conveyed to the county in fee simple. This property may be disposed of by the County Commissioners at any time, either at public or private sale, for such price and upon such terms as they may agree to, except that the purchaser must pay at least 25 per cent cash and the balance must be paid in not more than 4 years. Land not thus sold may be leased upon

such terms as the Board shall decide, but the term of the lease may not exceed one year.

Vermont - Temp. No. 186, Real Property Tax Collection Procedure. The procedure governing the conduct of tax sales is revised and regularized by a clarification of the requirements for giving notice to delinquent taxpayers; by the setting out of forms of advertisement, notice of sale and clerks' records; and by setting limits upon the period within which the validity of proceedings may be contested. (Suits with this last in view must be instituted within 6 months).

West Virginia - Interim Legislative Committee (H.C.R.26). Revision of laws relating to tax redemption is one of the problems to be considered by the Interim Legislative Committee.

West Virginia - Ch. 63, Subrogation For Tax Redemption (H.B. 244). A section is added to the statute dealing with tax redemption which provides for the subrogation of mortgage holders who redeem lands from tax sales. Interest is allowed at the rate of 6 per cent per annum.

Wyoming - Ch. 98, Tax Redemption (H. B. 11). All real property sold to the county for non-payment of taxes and remaining in its hands, may be redeemed at any time prior to January 1, 1940, by the payment of delinquent taxes only, without including accumulated interest, penalties and costs.

### Exemptions

Alabama - Gov's No. 488, Homestead Exemptions (H.B. 964). Homesteads of heads of families are exempted from all State ad valorem taxes as of October 1, 1937, to the extent of \$2000 in assessed value or 160 acres in area.

Arkansas - Act No. 35, Homestead Exemption on Donated Lands (H. B. 145). Donees in the process of proving title on State lands, if they are otherwise qualified, are entitled to the benefit of the law exempting homesteads from State taxes.

Wyoming - Ch. 44, Rural Electrification Property (H.B.39). Rural electrification cooperatives are exempt from taxation for a period of 5 years.

### Legislative Indulgences

The following States adopted laws designed to encourage the payment of delinquent taxes and improvement district assessments by providing for: (a) abatement of interest and pen-

(Leg. Indulgences, cont.)

alties; (b) installment payments or (c) extension of the redemption period:

Alabama - Gov's No. 204 (H.B. 341). Provides a 2-year redemption period for property foreclosed, to satisfy local improvement assessment liens.

California - Ch. 8 (A. B. 691). Property forfeited for taxes since 1930 is not to be sold at the 1939, 1940 and 1941 tax sales.

California - Ch. 9 (A.B. 692). Land sold to the State before July 6, 1938 redeemable up to April 20, 1940 without penalties except for a charge of 7 per cent from July 1, 1936.

California - Ch. 969 (S.B. 730). Special assessment bonds not to be foreclosed until September 1, 1941.

Idaho - Ch. 3 (H. B. 4). Redemption period on 1932-1935 taxes extended to December, 1939 and on 1936-1938 taxes to 4 years from date of delinquency entry. Redemption of 1932-1937 taxes may be by installments begun in December, 1939.

Illinois - Pare 857 (H.B. 51). Taxes delinquent as of January 1, 1939 payable in 5 annual installments.

Iowa - Ch. 211 (S.F. 366). Delinquent taxes payable in 10 annual installments.

Kansas - Ch. 325 (S.B. 452). Redemption period extended to September 1, 1941 when current year's taxes are paid.

Kansas - Ch. 326 (S. B. 228). Waives penalties on delinquencies redeemed before September 1, 1939.

Michigan - Act No. 50. Waives penalties on 1935 and prior year taxes when paid by September 30, 1939.

Minnesota - Ch. 91 (S. F. 623). Delinquent taxes for 1937 and prior years payable in 10 annual installments -- 10 per cent added in lieu of accumulated penalties and interest.

Nebraska - Ch. 98 (L. B. 14). Time fixed by 1937 legislation for payment of delinquent taxes without penalties extended to December 1, 1939.

New Mexico - Ch. 207 (H.B. 27). Privilege of payment without penalty or interest extended to October 1939.

Ohio - S. B. 3. Delinquent taxes for 1936 and prior years made payable in 10 annual installments.

Oklahoma - Ch. 66, Art. 28 (H.B. 150). Waives penalties on taxes for 1937 and prior years when paid by March 20, 1939.

Oklahoma - Ch. 66, Art. 29 (S. B. 122). Cancels penalties on taxes levied against homesteads for 1937 and prior years, and advances the delinquency dates to July 1, 1940 for 1938 taxes; July 1, 1941 for 1937 taxes; July 1, 1942 for 1936 taxes; July 1, 1943 for 1934 and prior years.

Pennsylvania - Act No. 233. Waives penalties and interest on delinquent assessment district taxes for 1934 and prior years. Waives penalties only on 1935 to 1938 taxes. To take advantage of the waiver, the taxpayer has a choice between cash settlement and installment payments.

South Dakota - Ch. 279 (S.B. 1). Delinquent taxes payable in 10 annual installments.

(Leg. Indulgences, cont.)

South Dakota - Ch. 230 (S. E. 62). Waives interest and penalties on delinquent taxes for 1937 and prior years when paid by December 1, 1939.

Tennessee - Ch. 50 (S.E. 64). Waives interest and penalties on delinquent taxes for 1937 and prior years when paid by January 1, 1940.

Washington - Ch. 104 (S.B. 200). Delinquent taxes payable in 20 semi-annual installments.

Wisconsin - Ch. 119 (A.B. 92). Extends to October 1, 1940 the discretionary authority of county governing bodies to waive payment of interest and penalties on delinquent taxes for the years 1931 to 1936.

Miscellaneous

Arkansas - Act No. 239, Liens in Favor of Purchaser of Lands Forfeited for Taxes (S.B. 314). If the title received by a purchaser of tax forfeited land is declared invalid, he is granted in addition to other available remedies, a lien for all taxes, assessments and penalties paid.

Florida - Constitutional Amendment Abolishing Ad Valorem Taxation (p. 1651)(S.J.R. 69). Proposes a constitutional amendment to be submitted to the voters at the 1940 general election, providing for the abolition of all ad valorem taxation for State purposes.

Georgia - Act No. 285, Tax Levy for Conservation of Natural Resources (p. 201). To the list of purposes for which counties may levy taxes (Sec. 923701 Ga. Code of 1933) is added the conservation of natural resources and forest fire protection.

Illinois - Page 886, Revenue Act of 1939 (H. B. 310). Existing laws relating to the assessment of property and the levy and collection of taxes are restated and codified with a view to placing them in logical sequence, removing ambiguities.

Maryland - Ch. 262, Tax Revision Commission (H. B. 459). Provides for the gubernatorial appointment of a Commission to investigate and recommend changes in the State, county and municipal tax systems.

Nebraska - Ch. 105, Emergency County Levy (L. B. 400). Counties with a deficiency in the County General Fund are authorized for the year 1939, notwithstanding other statutory limitations, to make a special 2-mill levy and to anticipate the proceeds therefrom by borrowing up to 85 per cent of its probable yield.

8/  
WATER UTILIZATION

Appropriation, Conservation and Storage

Arizona - Ch. 46, Colorado River Commission (S. B. 112). Creates a commission consisting of 3 members, appointed by the Governor, with the consent of the Senate: (1) to represent the State in civil and legal matters pertaining to the Colorado River and its tributaries within the State; (2) to negotiate for and cooperate with other governments in making surveys of the river; (3) to seek potential users of power; and (4) to perform other related functions.

Arkansas - Act No. 83, Acquisition of Flowage and Storage Rights by Levee and Drainage Districts (S. B. 201). Levee and drainage districts are fully empowered to acquire flowage and storage rights necessary for the construction, operation, and maintenance of floodways, reservoirs, spillways or diversions. All lands sought to be condemned may be embraced in one suit.

California - Res. Ch. 103, State Acquisition of Water Company Stock (A. C. A. 71). Proposes a constitutional amendment which would allow the State to acquire shares of the capital stock of a mutual water company, under certain conditions.

Idaho - Ch. 205, Appropriation by Division of Grazing (H.B. 229). The Division of Grazing of the Federal Department of the Interior is granted permission to appropriate any water not otherwise appropriated on the public domain, as long as it will be made available without charge for livestock purposes.

Michigan - Public Act 194, Control of Inland Lakes (S. B. 240). Boards of County Supervisors acting alone or in conjunction with the State Conservation Commission, may arrange to have the normal water levels of inland lakes judicially determined, upon the basis of such evidence as government and other surveys, and the statements of old inhabitants. Remedial dams and embankments may then be built in order to maintain the normal determined level. If the lake be a public lake, the State will bear all the expense, but otherwise the cost is to be paid by the County from the general real estate tax and from special assessments levied against adjacent lands deemed by the county board to be specially benefited.

Montana - Ch. 185, Stream Investigation (S. B. 144). At the direction of the State Water Conservation Board, the State Engineer is authorized to bring action to adjudicate the waters of

(Water Utiliz. cont.)

streams and their tributaries. In these actions, the State Engineer or any party to the adjudication may apply to the court for the appointment of competent referees. It is the duty of the State Engineer either before or after court action is commenced, at the direction of the State Water Conservation Board or at the order of the Court, to make whatever examination of a given stream may be necessary to a proper understanding of the relative rights of interested parties.

Nevada - Ch. 178, Control of Artesian Well Basins (A. B. 215). Persons desiring to drill wells in a proven artesian basin must first apply to the State Engineer for a water right. In other basins or sub-basins where water sought to be appropriated is underground water existing in unconfined aquifers and not under hydrostatic pressure, it is unnecessary to apply for a water right until water is actually developed. Standards are set up in the law for the guidance of the State Engineer in making and enforcing regulations concerning drilling operations and wastage of artesian waters. The Act does not apply to water for domestic purposes where the draught does not exceed 2 gallons per minute, and where the water developed is not from an artesian well.

North Dakota - Ch. 255, Public Waters (H. B. 293). All waters within the limits of the State, including navigable waters, are subject to appropriation for beneficial use.

North Dakota - Ch. 256, Water Conservation Act of 1939 (H. B. 274). The State Water Conservation Commission, consisting of the Governor and 4 other members appointed by him, is created to perform the following functions: (1) investigate, plan, regulate, construct and maintain public and private dams and projects designated to aid in water conservation and development for domestic, stock, recreation, irrigation, mining and other uses; (2) supervise and regulate the sale of water rights, the maintenance of water supplies, and the threat of stream pollution; (3) regulate and control construction and operation of water works, including service rate control; (4) sell, lease and otherwise distribute waters developed, impounded and diverted by it.

In carrying out its duties the Commission has authority to cooperate with neighboring States, with the United States, and with the Government of Canada.

Pennsylvania - Act No. 365, Water and Power Resources Board. The State Water and Power Resources Board is vested with authority over the conservation, control, and equitable use of the waters within the Commonwealth and particularly over the acquisition by private parties of rights to divert water from streams, lakes and ponds. The Act further makes available for public supply purposes water rights heretofore or hereafter ac-

(Water Utiliz. cont.)

quired but not used; and grants to all public water agencies existing or hereafter created, the right to eminent domain as to waters and land covered by such waters. Repeals No. 109 of 1905, No. 307 of 1907, and No. 64 of 1937.

South Dakota - Ch. 292, Storage of Surface Water (S.B.59). Anyone who constructs a dam across a dry water course, on land owned by him outside the corporate limits of a city, so as to form one or more surface water reservoirs, or who donates land to the State for that purpose, is entitled to a reduction in the assessed valuation of the piece of land upon which the reservoir is located, of 40 for each acre foot of storage capacity afforded. The maximum reduction thus provided cannot exceed 40 per cent of the assessed valuation of the entire contiguous acreage owned by the landowner.

Plans and specifications for the construction of such dams must be approved by the State engineer, who is empowered to require adequate spillway capacity and the use of proper construction materials. It is also the duty of the State Engineer, upon the completion of a dam, to certify that fact to the Board of County Commissioners and to indicate its capacity. The County Assessor must ascertain from year to year whether or not the dam is being maintained sufficiently well to qualify for the reduction in assessed valuation.

South Dakota - Ch. 24, Leasing County Land for Water Storage (S.B. 28). Lessees of county real estate may obtain from the Board of County Commissioners a permit to build a dam on leased land for the storage of surface water upon approval of the Federal District Range Program Inspector. When the dam has been completed, the Program Inspector is required to measure it, estimate the number of cubic yards it contains, and file with the County Auditor a certificate as to his findings. No quarter section partly covered by the reservoir at high water mark, may be leased or sold to anyone other than the lessee who built the dam, until the purchaser or the new lessee has paid to the County Auditor the sum of 15 cents for each cubic yard contained in the dam, as shown by the above mentioned certificate.

Utah - Ch. 32, Acquisition of Water Rights for County Use (H.B. 227). In addition to powers already granted to County Commissioners in connection with the acquisition of water rights for county uses, this Act permits them to receive by donation or acquire by lease any water rights or stock, or rights in reservoirs, or storage companies or associations. The Commissioners have the power to construct dams and canals for storage and distribution, and to fix the price for the sale of such water rights as may not be required for public use.

Utah - Ch. 111, Distribution of Water Rights (S. E. 234).

(Water Utiliz. cont.)

Existing laws relating to water and water rights are amended with respect to the powers of the State Engineer in handling applications for appropriation, and with respect to the distribution of unapplied rights. A new section is also added which authorizes the filing of requests with the State Engineer for segregation or division of pending applications to appropriate water, or for a permanent change of the point of diversion. Still another new section requires owners of reservoirs or dams to notify the State Engineer of their approximate location, the dimension of the dams and the capacity of the reservoirs. Owners are also required to install an approved type of gauge in connection with any dam which is more than 10 feet high or which impounds more than 100 acre feet of water. The State Engineer has authority to bring action to enforce compliance with these rules.

Wisconsin - Ch. 312, County Acquisition of Flowage Rights (S.B. 493). Authorizes County Boards to acquire land for flowage purposes in connection with any dam completed under a work project sponsored by the County.

Wyoming - Ch. 123, Changing Points of Diversion (S.F. 79). Anyone possessing a right to the beneficial use of the public water of any interstate stream, who desires to change the point of diversion from within the adjoining State to a point within the State of Wyoming, may do so upon obtaining a permit from the Board of Control. Before issuing a permit, the Board must investigate the validity of the applicant's water right and hold hearings at which adjoining owners may appear. Any person aggrieved by the Board's decision may appeal to the district court.

Wyoming - Ch. 125, Diversion of Water into Another State (H.B. 188). Public officials are forbidden to grant permits for any appropriation of public waters inside Wyoming for use outside the State's boundaries. Even in dealing with officials in other States their actions must be limited to the preparation of a suggested compact, together with recommendations and findings. Final action on any private petition can be taken only by the Legislature.

9/

#### Irrigation Districts

Oregon - Ch. 249, Irrigation District Contracts for Flood Control (H. B. 350). The board of directors of any irrigation district, organized under the laws of Oregon and situated in

(Irrigation Districts, cont.)

any county east of the Cascade range, is authorized to contract with the United States Government for the control of flood waters on any stream that either enters such district or is the source of irrigation water therefor. The Act also provides for an election to be held for approval of such contracts by the legal voters of the district.

South Dakota - Ch. 290, Procedure for Abandonment of Drainage Districts (H. B. 275). Proceedings for the abolition of a drainage district are put in motion by the signing of a petition by persons owning more than three-fourths of all the lands within its boundaries, and its subsequent presentation to the Board of County Commissioners. A date for a hearing is then set, and notice given to each owner of land in the district by mail and by publication. The district is thereupon dissolved, if the County Commissioners find dissolution to be to the best interests of those owning more than one-half the land within its boundaries. Payment of expenses incurred in the proceedings is to be made out of any surplus funds belonging to the district, and the balance returned to the various owners in proportion to their assessment contributions. Dissolution in no way affects the obligation or validity of previous assessments.

South Dakota - Ch. 293, Irrigation District Contracts With the United States (S.B. 29). Whenever the Board of Directors of an irrigation district deem it advisable, they are authorized to contract with the United States for supplementing or amending certain original contracts, provided that there be no increase in the principal indebtedness owing the United States. No election need be held for this purpose, nor is the board of directors required to obtain judicial confirmation. It is sufficient that the contract be authorized and executed by the President and Secretary of the Board, upon the adoption of an appropriate resolution at any regular or public meeting. Previous contracts thus made are now ratified and approved.

Utah - Ch. 35, Dissolution of Drainage Districts (S.B. 97). Laws relating to the dissolution of districts are amended and supplemented. (Sec. I, Ch. 73, Laws of 1923; Sec. 24 A-O-59-60, Rev. Stat. Supp. 1939). The amended section changes the number of land owners who are required to sign the dissolution petition from three-fourths of the adult owners of two-thirds of the area within the district, to the owners of a majority of the acreage in the district. There are also other minor changes in the procedure for handling the petition.

The sections added relate to the making of a detailed statement to the court of assessments levied, collected and uncollected, together with a statement of indebtedness. They provide also for allocating and apportioning the indebtedness against lands within the district; for releasing lands upon the payment of amounts so allocated; for barring claims not presented and adjudicated; and for the sale of lands in consequence of

(Water Utiliz. cont.)

the failure to pay the amount allocated.

Utah - Interest Rates on Loans to Agricultural Improvement Districts (S. C. R. 4). Congress is memorialized to pass legislation reducing the interest rate on Federal loans to agricultural improvement districts, from 4 to 3 per cent per annum.

Washington - Ch. 13, Subdivision of Irrigation Districts (S. B. 125). Irrigation districts comprising 200,000 or more acres are to be subdivided into as many areas of equal size as there are members of the Board of Directors, each such division to be represented by one Director.

The process of dividing or redividing is initiated by a petition signed by the Board of Directors or by 20 land owners, and addressed to the County Commissioners of the county containing the principal office of the district. The County Commissioners, after publication of notice and the holding of a hearing, have full authority to make the prescribed divisions.

A further provision limits the assessment on any tract in a director division to 2 cents per acre, until the Secretary of the Interior shall have announced that water is ready for delivery to that particular division.

Washington - Ch. 149, Disorganization of Irrigation Districts (H. B. 342). Any irrigation district which has no outstanding bonded indebtedness and which has been in existence for more than 20 years without having secured the irrigation of any of its lands, may be disorganized on petition of 25 landowners addressed to the district Board of Directors, and a subsequent three-fifths vote in favor of disorganization at a special election.

Washington - Ch. 150, Inclusion of Lands by Irrigation Districts (H. B. 343). Five or a majority of owners of land presumably susceptible of irrigation from the water supply of an established district containing at least 200,000 acres, may petition to have their land included therein. If at the hearing which follows, the Board of Directors determines that the land is not actually susceptible to the desired irrigation, or that 50 per cent or more of the title holders of land described in the petition have filed objections, the petition will be denied. Otherwise, the land will be included.

Washington - Ch. 14, Speculation in Reclamation Districts (S. B. 126). The State approves and consents to all the provisions of an Act of Congress (dated May 27, 1937) designed to prevent land speculation in the Grand Coulee Project area.

### Stream Pollution

Connecticut - Special Act 65, State Commission (S.B. 938). The Attorney General, members of the State Water Commission, the Commissioner of Health, and other persons as selected by the Governor, are constituted a commission to treat with New York and New Jersey in making plans for the prevention of waterway pollution.

Oregon - Ch. 3, Sanitary Authority (Initiative Petition, approved at general election, November 8, 1938.) Provides for control of the disposal of sewage and other waste matter in order to preserve the natural purity of the waters of rivers, streams, lakes, watersheds and coastal areas of the State. A sanitary authority composed of the State Health Officer, the State Engineer, the Chairman of the State Fish Commission and 3 members selected by the Governor, is empowered to encourage voluntary cooperation, formulate rules and regulations, make investigations, receive complaints, conduct public hearings and enforce the laws of the State relating to the pollution of waters.

### Water Districts and Flood Control Projects

California - Ch. 656, Sacramento River Flood Control Project (S.B. 950). Provision is made for the maintenance and operation of the Sacramento River Flood Control Project, constructed under the Federal law of August 26, 1937 (P.L. 392, 75th Congress.)

California - Ch. 73, San Bernardino County Flood Control District (S. B. 1231). The whole of San Bernardino County is included within the boundaries of a flood control district created for the purpose of protecting water courses, watersheds, public highways, life and property from damage by flood waters. The district is divided into 6 zones as a device for facilitating the preparation of construction plans and to serve as a basis for taxation. The affairs of the district are to be managed by the Board of Supervisors of San Bernardino County. The Board has jurisdiction over the hiring of competent technical assistants, preparation of project plans, the holding of hearings on proposed projects, the levying of taxes and the calling of special elections to authorize the issuing of bonds.

California - Ch. 420, San Luis Rey Water Authority (S. B. 533). Establishes an authority (consisting of 7 members appointed by the Governor to represent various local interests), to make surveys of natural resources in the San Luis Rey watershed and to plan for their conservation and use.

Indiana - Ch. 23, Flood Control Districts (S. 291). As a first step in the creation of a flood control district in and

(Flood Control cont.)

about cities of the 1st, 2nd, 3rd, 4th and 5th class, the local Board of Public Works may adopt a resolution making the following declarations: (1) the necessity of flood protection within the corporate limits of the city and any or all adjoining territory within 4 miles; on the basis of flood frequencies and damage within the last 10 years; (2) the general character of the flood control works to be undertaken; (3) a description of the boundaries of the territory to be beneficially affected; and (4) an estimate of the cost of acquiring necessary property, and of constructing and installing the proposed works.

A petition is then filed in the Circuit Court of the county. If, after due opportunity for a hearing, the court finds that no necessity exists, proceedings are dismissed. But if the court reaches a favorable decision, it establishes the district and fixes its boundaries, either in accordance with the petition or in accordance with evidence received in subsequent hearings. If 25 per cent or more of the territory within the corporate limits of the petitioning city has been inundated by flood waters within the preceding 10 years, the whole city becomes a part of the special benefit district. No territory outside the corporate limits which lies more than 3 feet above the highest flood stage, may be made a part of the district unless it is included within or protected by flood works.

Provision is made for the management of the district by a Board of Commissioners, and for financing the project by the levy of special taxes.

Michigan - Public Act 342, Connecting Water Systems (S.B. 396). In counties having a population of 300,000 or more (Wayne County), the Board of Supervisors may authorize and direct the establishment of water and sewage systems, between cities, villages and township districts. Supervision of construction and management of the completed project is left largely to the County Board, the whole arrangement to be formalized by agreements between the County Board and the governing bodies of the municipalities concerned.

New Hampshire - Ch. 227, Commission to Investigate Flood Control. Creates a Commission consisting of the Governor, as Chairman, the Attorney General, the Chairman of the "and use Board, the Chairman of the Water Resources Board, a member of Senate appointed by the President of the Senate, and an additional person appointed by the Governor, to inquire into and investigate flood control, water power development and other related public problems.

New York - Chs. 174 and 505, Flood Control Commission. The life of the temporary State Commission created in 1936 to assist in the institution and consummation of a Federal long range program of flood control in New York, is extended to April 30, 1940, at which time it is required to make recommendations.

(Flood Control, cont.)

to the Legislature.

Oklahoma - Ch. 70, Art. 4, Fairfax-Kaw City Authority (S. B. 220). The Act creates a reclamation and conservation district to be known as the Fairfax-Kaw City Authority, covering 6 counties. It is declared to be a political corporation, with authority to exercise specified functions including the control, storing, preservation, and distribution of the waters of the Arkansas River and its tributaries for irrigation, power, conservation, and the development of forests.

The district is not authorized to levy or collect taxes or in any manner pledge the credit of the State; but it may borrow up to \$3,000,000, in its own name.

Pennsylvania - Act No. 86, Flood Control Works. Amends an "Act relating to flood control" (1935 P.L. 106, and 1937 P.L. 43) by authorizing the State Department of Highways, with the approval of the Pennsylvania Water and Power Resources Board, to make agreements with Federal agencies relative to relocation and construction of highways, bridges, viaducts and so forth, as necessitated by construction of any State or Federal control works and improvements.

South Dakota - Ch. 291, Water Conservancy Districts (H. B. 277). The creation of new taxing districts, to be known as water conservancy districts, is authorized. This authorization is supplementary to powers already granted by other statutes to organize irrigation districts and districts for the storage, purchase, or distribution of water for municipal purposes. The organization procedure is put in motion by filing with the State Engineer a petition signed by 25 per cent of the landowners or entrymen within the area constituting the proposed district. This area need not be contiguous, and it may consist of lands wholly within, wholly outside or partially outside incorporated cities and towns. Furthermore, it may overlap the boundaries of another conservancy or irrigation district, insofar as no material conflict would result.

If the State Engineer finds the petition to be technically correct, and the proposed district and work plan mechanically and economically satisfactory, it is his duty to execute a certificate of organization, to be filed with the Secretary of State and subsequently certified to the County Auditor of each county in which the district lies. Districts are to have the usual powers of a corporation for public purposes, but not the power of taxation or assessment. They may borrow money and incur indebtedness for corporate use, to be repaid solely: (a) from income and profits derived from the operation and management of its water system, or (b) from the sale of district warrants, notes, revenue, bonds, debentures, etc., likewise payable solely from revenues. The maximum maturity date for district obligations is 40 years, and the maximum interest rate 6 per cent.

(Flood Control, cont.)

Texas - Rio Grande Flood Control Project (S. B. 250). The Commissioners' Court of any county bordering Mexico, or of any county contiguous to such a county, are authorized to enter into agreements with the Federal Government to acquire, and to convey to the United States with or without consideration, land to be used in the development of navigation, irrigation and flood control projects.

Texas - Water Improvement Districts (H. B. 892). After a water improvement district has been organized and has acquired facilities with which to function as an irrigation district, it may proceed to exclude lands which are of such a nature as to make irrigation impractical. Before so doing, however, it is necessary to obtain the consent of 95 per cent of the holders of outstanding bonds; and it is also necessary that a like amount of irrigable land of at least equal value be simultaneously added to the district.

Utah - Ch. 129, Colorado River Great Basin Project (S. B. 242). The sum of \$62,500 -- to be matched by Federal funds -- is appropriated to the Utah Water Storage Commission for an investigation and survey of the proposed Colorado River Great Basin project. The project has for its objective the building of dams, reservoirs, canals, power plants and power lines for the utilization of water from the Green and Colorado Rivers.

Wyoming - Constitutional Amendment (S.J.R. 3). The electors of the State will be asked at the next general election to vote on a constitutional amendment which would permit the State to engage in water utilization and conservation improvement works without having first to obtain the now required authorization of a two-thirds vote of the people. Under the amendment the Legislature would have power to provide for construction of such works either directly or by extending aid to political subdivisions and other subordinate public corporations.

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